

**TOWARD A LOGICAL GOVERNING STRUCTURE:
RESTORING EXECUTIVE REORGANIZATION
AUTHORITY**

HEARING
BEFORE THE
**COMMITTEE ON
GOVERNMENT REFORM**
HOUSE OF REPRESENTATIVES
ONE HUNDRED EIGHTH CONGRESS
FIRST SESSION

APRIL 3, 2003

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TOWARD A LOGICAL GOVERNING STRUCTURE: RESTORING EXECUTIVE REORGANIZATION AUTHORITY

THURSDAY, APRIL 3, 2003

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m., in room 2157, Rayburn House Office Building, Hon. Tom Davis of Virginia (chairman of the committee) presiding.

Present: Representatives Tom Davis of Virginia, Shays, Mrs. Davis of Virginia, Platts, Duncan, Miller, Waxman, Maloney, Cummings, Tierney, Clay, Watson, Van Hollen, and Ruppersberger.

Staff present: Peter Sirh, staff director; Melissa Wojciak, deputy staff director; Keith Ausbrook, chief counsel; Ellen B. Brown, legislative director and senior policy counsel; David Marin, director of communications; Scott Kopple, deputy director of communications; Mason Alinger, professional staff member; Teresa Austin, chief clerk; Joshua E. Gillespie, deputy clerk; Corinne Zaccagnini, chief information officer; Brien Beattie, staff assistant; Anne Marie Turner and John Hunter, counsels; Phil Barnett, minority chief counsel; Michelle Ash, minority counsel; Tania Shand, minority professional staff member; Earley Green, minority chief clerk; Jean Gosa, minority assistant clerk.

Chairman TOM DAVIS. Good morning. Thank you all for coming. The purpose of today's hearing is to discuss the reauthorization of the Executive reorganization authority which grants the President the authority to initiate organizational changes within the executive branch.

Executive reorganization authority was first enacted as part of the Economy Act of 1932 under President Herbert Hoover and periodically reauthorized under Presidents Roosevelt, Truman, Carter, and Reagan until it lapsed in 1984. Since then, despite interest in reauthorization authority in both the executive branch and in Congress as a way to encourage the President to take the initiative in organizational management issues, momentum has not built up behind the authority until recently.

In the President's management agenda, which was included as part of the fiscal year 2003 budget proposal, President Bush stated the following: "The administration will seek to reinstitute permanent reorganization authority for the President through expedited legislative approval of plans to reorganize the executive branch."

The management initiatives in the President's management agenda offered an unprecedented focus on improving the management practices of the Federal Government. Unfortunately, the unforeseen debate over the creation of a new Department of Homeland Security trumped any serious discussions in the last session of Congress regarding Executive reorganization authority or the other initiatives included in the management agenda.

In the wake of the long and arduous debate on the creation of a new department, one thing is clear: given our current organizational structure in Congress, it is exceedingly difficult for Congress to undertake even the simplest reorganization of the executive branch. For example, for Congress to even consider a restructuring of the dozen Federal offices involved in food safety, over 30 committees and subcommittees in Congress would be involved. I can't imagine what it would take to get all 30 committees and subcommittees to come to agreement over how to reorganize the structure of Federal food safety oversight.

In an attempt to address this issue of congressional stalemate over reorganizations, the National Commission on the Public Service, also known as the Volcker Commission, came to the same conclusion that the President did in his management agenda: Congress should reauthorize the Executive reorganization authority. We heard testimony here from Chairman Volcker and Donna Shalala and others of calling for Congress to do exactly that.

I agree with the President and with the Volcker Commission that Executive reorganization authority may be the only way that we can realistically improve the efficiency and effectiveness of Government operations, but it is essential for this committee to include sufficient safeguards in the legislation that will address some of the biggest concerns raised by affected parties, especially those concerns made by the Federal work force, who will be directly impacted by any Government reorganization.

I hope that today's discussion of Executive reorganization authority is a thoughtful and fruitful one. I am well aware that there is a reluctance in some groups to granting the President additional authority to make changes to the Federal Government; however, I hope that we can all come to the conclusion that certain operational restructurings that have a minimal impact on Federal policy may best be initiated and developed by the experts in the executive branch rather than by the generalists in Congress.

We've gathered today an outstanding group of witnesses before us today who will provide members of this committee with perspectives from all sides on the issue as we move forward. I look forward to working with both the witnesses and the Members as we consider this important legislation. I welcome all the witnesses in today's hearing. I look forward to their testimony.

[The prepared statement of Chairman Tom Davis follows:]

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"Toward a Logical Governing Structure: Restoring Executive Reorganization Authority"
Opening Statement of Chairman Davis
Committee on Government Reform
April 3, 2003 at 10:00 a.m.
2154 Rayburn House Office Building

Good morning and thank you for coming. The purpose of today's hearing is to discuss the reauthorization of the executive reorganization authority, which grants the President the authority to initiate organizational changes within the executive branch.

Executive reorganization authority was first enacted as part of the Economy Act of 1932 under President Hoover and periodically reauthorized under Presidents Roosevelt, Truman, Carter, and Reagan, until it lapsed in 1984. Since then, despite interest in reorganization authority, in both the executive branch and in Congress, as a way to encourage the President to take the initiative in organizational management issues, momentum has not built up behind the authority until recently.

In the President's Management Agenda, which was included as part of his Fiscal Year 2003 budget proposal, President Bush stated the following: "[t]he Administration will seek to re-institute permanent reorganization authority for the President to permit expedited legislative approval of plans to reorganize the Executive Branch."

The management initiatives in the President's Management Agenda offered an unprecedented focus on improving the management practices of the federal government. Unfortunately, the unforeseen debate over the creation of a Department of Homeland Security trumped any serious discussions in the last session of Congress regarding executive reorganization authority or the other initiatives included in the management agenda.

In the wake of the long and arduous debate on the creation of a new department, one thing is clear: given our current organizational structure in Congress, it is exceedingly difficult for Congress to undertake even the simplest reorganization of the executive branch. For example, for Congress to even consider a restructuring of the dozen federal offices involved in food safety, over 30 committees and subcommittees in Congress would be involved. I can't imagine what it would take to get all 30 committees and subcommittees to come to agreement on how to reorganize the structure of federal food safety oversight.

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I agree with the President and with the Volcker Commission that executive reorganization authority may be the only way that we can realistically improve the efficiency and effectiveness of government operations. But it is essential for this Committee to include sufficient safeguards in the legislation that will address some of the biggest concerns raised by affected parties, especially those concerns made by the federal workforce, who will be directly impacted by any government reorganization.

I hope that today's discussion of executive reorganization authority is a thoughtful and fruitful one. I am well aware that there is reluctance in some groups to granting the President additional authority to make changes to the federal government. However, I hope that we can all come to the conclusion that certain operational restructurings that have a minimal impact on federal policy may best be initiated and developed by the "experts" in the executive branch rather than by the generalists within Congress.

We have gathered together an outstanding group of witnesses before us today who will provide Members of this Committee with perspectives from all sides of the issue as we move forward. I look forward to working with both the witnesses and the Members as we consider this important legislation.

I welcome all of the witnesses to today's hearing and I look forward to their testimony.

Chairman TOM DAVIS. I would now like to recognize Mr. Waxman, the ranking Democratic member of the committee.

Mr. WAXMAN. Thank you, Mr. Chairman. I'd like to commend you for holding this hearing today.

Executive branch reorganization is an important issue that this committee should consider carefully. Within the executive branch there are certainly areas of jurisdictional overlap. For example, as you pointed out, 12 different agencies are responsible for administering food safety laws. Similar overlaps exist with job training, teen pregnancy, and homeless programs, to name a few. These overlaps are ripe for review.

In addition, some agency programs were created to respond to problems that may not even exist today, and new problems of today may not properly be addressed by the current Federal Government structure. In 1995, GAO testified as new challenges arose or new needs were identified, new programs and responsibilities were added to departments and agencies with insufficient regard to their effect on overall delivery of service to the public.

Thus, I believe it is appropriate for Congress and this committee in particular to examine how the executive branch is organized. One question we will have to address is how Congress should consider reorganization proposals. I know that there are those who favor transferring most of the responsibility for Executive reorganization from the Congress to the White House. This may not be the wisest course. Ultimately, any successful reorganization effort depends on the President and the Congress working together and doing so on a bipartisan basis.

There is one other point I want to stress. As we focus on making Government work more effectively and efficiently, we cannot overlook the importance of our Federal civil service. Federal employees are the heart and soul of our Government. Unfortunately, the White House has a terrible track record on civil service issues. It has worked to strip away collective bargaining rights, reduce Federal pay, and reinstate bonuses to political appointees. As a result, there are many who believe that the call for more reorganization is simply a code word for another assault on Federal employees. I know that this is not the chairman's intent, but this perception is a legacy of past administration actions. We will have to find ways to address the genuine concerns of Federal employees as we consider any future reorganization proposals.

I look forward to hearing from the witnesses on the important issue before us today.

Chairman TOM DAVIS. Thank you very much.

[The prepared statement of Hon. Henry A. Waxman follows:]

**Statement of Rep. Henry A. Waxman
House Government Reform Committee
Hearing on Reorganization Authority**

April 3, 2003

Mr. Chairman, I would like to commend you for holding this hearing. Executive branch reorganization is an important issue that this Committee should consider carefully.

Within the executive branch, there are certainly areas of jurisdictional overlap. For example, 12 different agencies are responsible for administering food safety laws. Similar overlaps exist with job training, teen pregnancy, and homeless programs, to name a few. These overlaps are ripe for review.

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I know that this is not the Chairman's intent. But this perception is a legacy of past Administration actions. We will have to find ways to address the genuine concerns of federal employees as we consider any future reorganization proposals.

I look forward to hearing from the witnesses on the important issues before us today.

Chairman TOM DAVIS. Any other opening statements? Mrs. Davis, chairwoman of the Civil Service Subcommittee.

Mrs. DAVIS OF VIRGINIA. Thank you, Mr. Chairman. Mr. Chairman, I want to say thank you for calling this hearing on reorganization authority. You know, when you take a step back and look at the current organization of the Federal Government, you find that in many cases there is absolutely no rhyme or reason to the Government structure. Agencies performing similar missions are often located within different Cabinet departments. This problem was underscored during the creation of the Homeland Security Department, as we've heard this morning, when Congress and the President took 22 agencies with a similar mission, protecting our Nation's borders and guarding against terrorism, and put them in the same department. Imagine that—one department, 22 agencies, but the same basic mission. There is a logic there that is too often lacking in the rest of the executive branch.

The Volcker Commission spelled this out quite clearly in its recent report. It noted, for example, that there are 90 early childhood programs scattered among 11 agencies in 20 offices, 342 economic development programs administered by 13 of the 14 Cabinet departments, and 50 homeless assistance programs spread out over 8 agencies. Lack of coordination among these agencies is certainly a concern, not to mention that, given the structure, the Government probably has redundant operations.

Mr. Chairman, it seems impossible to have a highly efficient Government without a logical governmental structure. An inefficient, ineffective Government is bad for the employees, bad for the Government, and bad for the citizens. Congress and the President ought to reexamine the present structure of Government to determine if there are places to achieve better cohesion of functions.

I look forward to hearing the views of our distinguished guests today on this matter of restoring fast track reorganization authority to the President.

I thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you very much.

The Chair will suspend any other opening statements at this point.

We are pleased to have with us today the majority leader, the gentleman from Texas, who has shown a constant interest in reorganization authority.

Tom, we are very happy to have you here today, and we'll move right to your testimony.

Mr. WAXMAN. Mr. Chairman, may I ask unanimous consent that all Members' opening statements be entered in the record? I know that Danny Davis has a statement he'd like to have entered.

Chairman TOM DAVIS. If there is no objection, so ordered. Thank you.

[The prepared statements of Hon. Danny K. Davis and Hon. Wm. Lacy Clay follow:]

STATEMENT OF CONGRESSMAN DANNY K. DAVIS AT THE
COMMITTEE ON GOVERNMENT REFORM
HEARING
ON RESTORING EXECUTIVE REORGANIZATION AUTHORITY

Thursday, April 3, 2003

Chairman Davis, and Ranking Member
Waxman, this hearing will be very helpful as we
continue to examine how to make the federal
government more effective and efficient.

Last month this Committee held a hearing
on everything from reorganizing the
government to recruiting new employees.

At that hearing, Paul Volcker, Chairman of

the National Commission on the Public Service, recommended that we give the President expedited reorganization authority.

Many experts, like those who will testify before us today, support granting the President reorganization authority. But what is emerging from these hearings on reforming government is that the “devil is indeed in the details.”

I believe that everyone would agree that overlapping and duplicative government programs are problematic, but how much

authority should the President be given to reorganize the federal government, and what role should Congress have in framing the reorganization?

There are numerous models for granting the President reorganization authority. In 1932, when Congress first granted the President reorganization authority, the President was permitted to issue an executive order which went into effect unless Congress acted within 60 days.

In 1984, the last time Congress passed reorganization authority, a joint resolution had to be issued in the House and the Senate. If either body failed to vote on the reorganization plan, it was considered disapproved.

We can learn a lot from the creation of the Department of Homeland Security and the role Congress played in framing that agency.

The witnesses before us today have an opportunity to provide us with specifics on how and *why* reorganization language should be

drafted, and I hope they will do so. Thank you
for taking the time to testify at this hearing. I
look forward to your testimony.

Statement of the Honorable William Lacy Clay
Before the
Government Reform Committee
Thursday, April 3, 2003

**“Toward a Logical Governing Structure: Restoring Executive
Reorganization Authority”**

Mr. Chairman, the question of restoring executive branch authority to reorganize government is an important one and seems to come at an unusual time in our nation’s history. My first response is that of caution. I am of the opinion that Congress has already conceded much of its constitutional powers to the executive branch. So, the question of restoring executive branch reorganization authority could, in the proper context be significantly consequential. Yet, I am still deeply concerned about the timing of this request.

For over fifty years, various administrations have used the reorganization authority given to them by Congress to refine and retune executive branch departments and agencies. In his initial reorganization plan, President Franklin D. Roosevelt created the Executive Office of the President. That was a good idea, which centralized authority and minimized confusion within the office of the President.

On March 3, 1993, President Clinton initiated a National Performance Review (NPR) conducted under the leadership of

former Vice President Al Gore. "Our goal," said the President "is to make the entire federal government both less expensive and more efficient, and to change the culture of our national bureaucracy away from complacency and entitlement. We intend to redesign, to reinvent, and to reinvigorate the entire national government."

Mr. Gore extolled those efforts, and indicated a desire to build on that reform initiative which called for the creation of a new "e-government" to help eliminate bureaucratic red tape and make government more accessible to the people by placing nearly all government services on-line by 2003. By all accounts, the reform initiative was highly successful.

Ironically, while Governor of Texas, George W. Bush also expressed a desire to reshape the federal government, by cutting an additional 2% of the executive workforce, turning many government functions over to contractors, and creating a \$100 million fund to support e-government initiatives.

The underlying issue for today's hearing is who reorganizes - Congress or the President and by what authority and for what purpose. Mr. Chairman, I ask unanimous consent to submit my statement into the record.

**STATEMENT OF HON. TOM DELAY, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF TEXAS**

Mr. DELAY. Thank you, Mr. Chairman and Mr. Waxman, other members of the committee. It is an honor to be with you today to discuss the reauthorization of the President's Executive reorganization authority. To me, there's no greater management challenge to the Federal Government than its antiquated organizational structure.

In order to meet the needs of the American people, the Government must modernize, just as every successful school, business, and nonprofit group has in recent years. The President's management agenda is designed to establish a Government fit to meet the needs of a 21st century nation. A vital component of this agenda is the restoration of Executive reorganization authority to the President, which expired in 1984 and now requires congressional action. This authority was held and successfully employed by Presidents from both parties for more than 50 years. It is ironic that the President's authority to reorganize the Government expired in 1984, the very year the personal computer revolution launched two decades of efficiencies and reforms in the way people work.

The Federal Government has lagged behind that revolution, clinging to an organizational model developed between the 1930's and the 1970's. Failing to exploit the benefits of a modernized organization, a mistake that would bankrupt any business in our competitive economy, has riddled Federal programs with expensive and inefficient bureaucracies.

Now, this model has led to the proliferation of wasteful, overlapping programs across the Federal Government. One can find such programs in almost any agency and department. For instance, the Department of Health and Human Services manages 27 individual programs to support teen pregnancy prevention at an annual cost of some \$200 million. Each has its own standards and its own goals. Each is targeted at a different audience. HHS also manages seven separate agencies that fund programs to prevent child abuse. The Department of Justice houses two more. In the Department of Energy, 45 different offices awarded separate contracts for the same computer data base program, and 24 offices awarded separate contracts for the same Internet security program.

Now, I don't mean to single out these program agencies or programs. They are merely symptoms of an overall problem in the Federal bureaucracy that has ignored the modernizing efficiencies embraced by the rest of the world. And this isn't about reorganizing for its own sake. There is no doubt the Federal Government expends a tremendous amount of effort and resources through these agencies to provide vital services to the people who need them, but duplicative programs and agencies too often only contribute to the very problems they are designed to solve. These problems are real, they affect real Americans every day, and they need to be solved.

We spend a great deal of energy and money to solve them, but the evidence suggests we are not spending that energy and money wisely. Meanwhile, the problems persist, and for too many they are getting worse. The staggering array of Government programs today is confusing and inefficient, but in a modern and innovative society they don't have to be. Successful businesses in the last 20 years

have demonstrated agility, responsiveness to shifting demands, and a commitment to consumer service.

By contrast, the culture of the Federal bureaucracy, laden for decades with layer upon layer of new programs, produces sluggishness, a resistance to change, and confusion among its workers and intended beneficiaries, alike. The American people pay for these programs. They have a right to expect them to work.

To make the necessary reforms, the President needs the freedom to shape and manage a 21st century government that is responsive and accountable to its constituents. Mr. Chairman, restoring Executive reorganizational authority to the President will help him do just that, and I urge this committee to mark up this bill and get it out as soon as possible.

Chairman TOM DAVIS. Thank you very much.

[The prepared statement of Mr. DeLay follows:]



Testimony before Committee on Government Reform
U.S. House of Representatives
April 3, 2003

Thank you, Mr. Chairman and members of the Committee. It's an honor to be here with you today to discuss the reauthorization of the President's Executive Reorganization Authority.

There is no greater management challenge to the federal government than its antiquated organizational structure.

In order to meet the needs of the American people, the government must modernize, just as every successful school, business, and non-profit group has in recent years.

The "President's Management Agenda" is designed to establish a government fit to meet the needs of a 21st century nation.

A vital component of this agenda is the restoration of Executive Reorganization Authority to the President, which expired in 1984 and now requires Congressional action.

This authority was held and successfully employed by Presidents from both parties for more than 50 years.

It's ironic the President's authority to reorganize the government expired in 1984, the very year the personal computer revolution launched two decades of efficiencies and reforms in the way people work.

The federal government has lagged behind that revolution, clinging to an organizational model developed between the 1930s and 1970s.

Failing to exploit the benefits of a modernized organization – *a mistake that would bankrupt any business in our competitive economy* – has riddled federal programs with expensive and inefficient bureaucracies.

This model has led to the proliferation of wasteful, overlapping programs across the federal government. One can find such programs in almost any agency and department.

For instance, the Department of Health and Human Services manages 27 individual programs to support teen pregnancy prevention, at an annual cost of some \$200 million.

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I don't mean to single out these particular agencies or programs. They are merely symptoms of an overall problem in the federal bureaucracy that has ignored modernizing efficiencies embraced by the rest of the world.

And this isn't about reorganizing for its own sake. There is no doubt the federal government expends a tremendous amount of effort and resources – through these agencies – to provide vital services to people who need them.

But duplicative programs and agencies too often only contribute to the very problems they are designed to solve.

These problems are real. They affect real Americans every day. They need to be solved.

We spend a great deal of energy and money to solve them, but the evidence suggests we are not spending that energy and money wisely.

Meanwhile, the problems persist, and, for too many, they get worse.

The staggering array of government programs today is confusing and inefficient, but in a modern and innovative society, they don't have to be.

Successful businesses in the last 20 years have demonstrated agility, responsiveness to shifting demands, and a commitment to customer service.

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The American people pay for these programs: they have a right to expect them to work.

To make the necessary reforms, the President needs the freedom to shape and manage a 21st century government that is responsive and accountable to its constituents.

Restoring Executive Reorganization Authority to the President will help him do just that.

###

Chairman TOM DAVIS. That's quite a charge you have given us. This has lingered around now almost 20 years without Presidents having that authority, and you can see, with the fiasco that we went through last year with Homeland Security, this still involves Congress in the process but I think allows the job to get done.

I know you have other places you need to go, Mr. Leader, but I appreciate your being here.

Mr. DELAY. Thank you, Mr. Chairman. And thank you for the time of the committee.

Chairman TOM DAVIS. Thank you very much.

I think we are ready to call our first panel, if we could have our first panel, if the clerks would get the name tags here. We have Nancy Dorn and Dave Walker.

If you would rise with me, it is the policy of the committee we swear all witnesses.

[Witnesses sworn.]

Chairman TOM DAVIS. Thank you very much.

Ms. Dorn, why don't we start with you and then Mr. Walker, and then we'll open it for questions. And thank you very much for being here with us today.

Please proceed.

STATEMENTS OF NANCY DORN, DEPUTY DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET; AND DAVID M. WALKER, COMPTROLLER GENERAL, U.S. GENERAL ACCOUNTING OFFICE

Ms. DORN. Thank you, Mr. Chairman. Mr. Chairman, members of the committee, I am happy to be with you today as you begin to consider reauthorization of the Reorganization Act which expired in 1984, as you pointed out.

The Bush administration strongly supports reauthorization of the Reorganization Act. Reorganization authority would give this President, as it has for others dating back to 1932, the power to propose organizational changes to Federal agencies and require Congress to disapprove or approve the action without lengthy delays. If enacted, this authority would be another powerful tool for this President to use to improve the management of the executive branch of the Federal Government.

Between 1953 and 1980 when reorganization authority was in effect, 65 reorganization plans were submitted to the Congress. Only eight of those plans were rejected. But what has happened since 1980, from expanding globalization to advances in technology, in addition to the growth in Government, make the need for reorganization authority now more important than ever.

The reasons for wanting reorganization authority—the ability to bring sense to the chaos that is the Federal Government—are very clear. As Congressman DeLay pointed out, the number of Federal agencies has grown substantially. Many of the existing departments and agencies were created in response to the crisis of the moment, and as a result many of the Government's important missions are accomplished today by multiple organizations within the executive branch.

You pointed out a few examples, and I have a few others here, such as 342 economic development programs in 13 different agen-

cies, 17 Federal departments and agencies operate 515 research and development labs, and numerous agencies are involved in trade and export promotion.

In some cases, coordination among agencies is exemplary, but clearly that is not always the case. Consequently, duplication and fragmentation abound. Overlap and duplication often result in waste and inefficiency, which this administration is committed to reducing. More importantly, such duplication often hampers the Government's ability to achieve clear results. Reorganization authority would allow the executive branch increased flexibility in working to achieve improved management practices and more streamlined organization.

The National Commission on the Public Service came to similar conclusions in its recently released report, "Urgent Business for America: Revitalizing the Federal Government for the 21st Century." Charged to examine the state of the Federal public service, the Commission came to the thoughtful conclusion that our public servants could serve more effectively if the Federal Government's chaotic organization was simplified.

There is a quote from the report that I thought was particularly interesting. It said, "The current organization of the Federal Government in the operation of public programs are not good enough. They're not good enough for the American people, not good enough to meet the extraordinary challenges of the century just beginning, and not good enough for the hundreds and thousands of talented Federal workers who hate the constraints to keep them from serving their country with the full measure of their talents and energy. We must do better, much better, and soon."

You are, I'm sure, well aware of the recommendations of the Commission related to Government reorganization. In short, they recommended that the Federal Government should be reorganized into a limited number of mission-related Executive departments, the President should be given expedited authority to recommend structural reorganization of Federal agencies and departments, and the House and Senate should realign their committee oversight to match the mission-driven reorganization of the executive branch. These are three of the numerous recommendations that they made, but certainly among the more significant ones and the subjects of today's hearing.

This administration's recent experience with the Department of Homeland Security suggests that reorganization authority would give us a running start to achieve substantial progress in addressing overlap and duplication in the Federal Government. In the case of the Department of Homeland Security, the President's proposal to create a new department came out of one of the greatest crises in our Nation's history. This event laid bare the fact that our homeland security apparatus needed to be rationalized and strengthened, and soon.

The President proposed and the Congress endorsed bringing together 22 agencies into a new Department of Homeland Security, but as the Volcker Commission suggests, creating the Department of Homeland Security was daunting, requiring extensive and excruciating political negotiations. It was worth it. Americans will be safer because of it. But the Federal Government should not have

to engage in a divisive and time-consuming fight like the one to create the Department of Homeland Security just to bring greater order to a specific Government mission, nor should we wait for a crisis to focus our attention on strengthening and rationalizing Government functions. The authorization of the Reorganization Act would allow this and future administrations the opportunity to avoid such difficulties in responding to future challenges.

Many in Congress are clamoring for some device to address the Government's seeming inability to rationalize its own size and scope. Congressman Kevin Brady has proposed legislation that would establish a Federal commission to examine the performance and purpose of Government agencies. The 2004 Senate budget resolution included a Sense of the Senate amendment offered by Senator Brownback which endorsed the creation of a commission to review Federal domestic agencies and programs within such agencies, with the express purpose of providing Congress with recommendations, and legislation to implement those recommendations.

These initiatives are aimed at streamlining the process by which the Congress and the administration consider improvements to Government reorganization. The Reorganization Act has the benefit of a long history and a precedent.

I want to note for the benefit of the committee, as it considers this idea, that without the integration of other managerial flexibilities outlined in the President's 2004 budget and the President's management agenda, that the benefits of reorganization authority would be largely illusory. The Federal Government needs modern asset and personnel management flexibilities, and a human capital performance fund would give the agencies a critical tool in promoting pay for performance for Federal employees.

I don't want to leave the committee with the idea that without reorganization authority we cannot make substantial progress in improving Government management. We are continuing to focus on a number of key areas in the context of the President's management agenda, such as: strategic management of human capital, competitive sourcing, improved financial performance, expanded electronic government, and budget and performance integration. Congress and others have consistently supported the need for immediate management attention in these areas. We are also pursuing a number of management changes through the traditional method of piece-by-piece, agency-by-agency, program-by-program rationalization in the context of the annual budget and authorizing legislation.

In the face of a massive looming retirement wave, the U.S. Government is hiring and retaining the right people with the right skills and holding them accountable for serving the American public. We are improving our business processes and ensuring that only the most effective and efficient source is providing Government services.

Because of the management agenda, the Government is improving the quality and timeliness of financial information so it can be used to manage Federal programs and prevent waste, fraud, and abuse. We're providing enhanced services directly to citizens over

the Internet and improving the management of information technology.

We'll continue our drive to improve the performance and management of the executive branch, but, as so many experts in the management of government have suggested, reorganization authority is another tool that can greatly enhance the prospect that Government can be better structured to meet the challenges of the 21st century.

I applaud this committee for considering this important proposal and look forward to working with you.

Chairman TOM DAVIS. Thank you very much.

[The prepared statement of Ms. Dorn follows:]

Statement of the Honorable Nancy Dorn

Deputy Director

Office of Management and Budget

before the

House Committee on Government Reform

United States House of Representatives

April 3, 2003

Thank you, Chairman Davis, Congressman Waxman, Members of the Committee. I am happy to be with you today as you begin to consider reauthorization of the Reorganization Act, which expired in 1984.

The Bush Administration strongly supports reauthorization of the Reorganization Act. Reorganization authority would give this President, as it has for others dating back to 1932, the power to propose organizational changes to federal agencies and require Congress to disapprove or approve the action without lengthy delays. If enacted, this authority would be another powerful tool for the President to use to improve the management of the Executive Branch of the Federal government.

Between 1953 and 1980, when reorganization authority was in effect, 65 reorganization plans were submitted to the Congress. Only eight of those plans were rejected by the Congress. But what has happened since 1980, from expanding globalization to advancements in technology, in addition to the growth

in government, make the need for reorganization authority now more important than ever.

The reasons for wanting reorganization authority – the ability to bring sense to the chaos that is the federal government -- are clear. The attached chart illustrates the breadth and complexity of the Executive Branch.¹ The number of Federal agencies has grown substantially over time. Many of the existing departments and agencies were created in response to the crisis of the moment. As a result, many of the government's important missions are accomplished today by multiple organizations within the Executive Branch. For example:

- 342 economic development programs are managed by 13 agencies;
- 17 different programs in 8 different federal agencies administer rural water and wastewater programs;
- 17 Federal departments and agencies operate 515 research and development laboratories; and
- 8 agencies handle trade or export promotion.

In some cases, coordination among agencies is exemplary. But clearly, that is not always the case. Consequently, duplication and fragmentation abound. Overlap and duplication often result in waste and inefficiency, which this Administration is committed to reducing. More importantly, such duplication often hampers the government's ability to achieve clear results. Reorganization authority would allow the Executive Branch increased flexibility in working to achieve improved management practices and more streamlined organization.

¹2002 Financial Report of the United States Government, March 31, 2003.

The National Commission on the Public Service came to similar conclusions in its recently released report, "Urgent Business for America: Revitalizing the Federal Government for the 21st Century." Charged to examine the state of the federal public service, the Commission came to the thoughtful conclusion that our public servants could serve more effectively if the federal government's chaotic organization was simplified. From the Commission's report:

[G]overnment reorganization has come to be viewed as a task so daunting, requiring such extensive and excruciating political negotiations, that it takes a national emergency to bring it about. Without government reorganization, it will be very difficult to revitalize the public service. The fact of the matter is that we need both government reorganization and revitalization of the public service.²

What impresses me most about the Commission's recommendations is that they come from such a diverse group of public servants with deep experience in public administration. Paul Volcker was joined on the Committee by Franklin Raines, Frank Carlucci, Bill Bradley, Donna Shalala, and Vin Weber. That these political heavyweights could agree on anything is astounding. That their energies have focused our attention on the needs of government reorganization is to their credit.

You are, I am sure, well aware of the recommendations of the Commission related to government reorganization:

- The federal government should be reorganized into a limited number of mission-related executive departments;

² Report of the National Commission on the Public Service; Urgent Business for America: Revitalizing the Federal Government for the 21st century, January 2003.

- The President should be given expedited authority to recommend structural reorganization of federal agencies and departments; and
- The House and Senate should realign their committee oversight to match the mission-driven reorganization of the executive branch.³

Our focus today is reorganization authority, which could assist us in focusing the missions of Executive branch agencies.

This Administration's recent experience with the Department of Homeland Security suggests that reorganization authority would give us a "running start" to achieve substantial progress in addressing overlap and duplication in the Federal government.

In the case of the Department of Homeland Security, the President's proposal to create a new Department came out of one of the greatest crises in our nation's history. We were attacked within our borders; thousands of our citizens were murdered. This event laid bare the fact that our homeland security apparatus needed to be rationalized and strengthened.

The President proposed, and the Congress endorsed, bringing together 22 agencies into a new Department of Homeland Security. But as the Volcker Commission suggests in its report, creating the Department of Homeland Security was "daunting, requiring . . . extensive and excruciating political negotiations."⁴ It was worth it. Americans will be safer because of it. But the Federal government should not have to engage in a divisive and time consuming fight like the one to

³ Ibid.

⁴ Ibid.

create the Department of Homeland Security just to bring greater order to a specific government mission. Nor should we wait for a crisis to focus our attention on strengthening or rationalizing government functions. Reauthorization of the Reorganization Act would allow this and future Administrations the opportunity to avoid such difficulties in responding to future challenges.

When President Truman signed the Reorganization Act of 1945, he wrote of the promise of the Act:

Regrouping and consolidation to bring together those agencies having related purposes will lead to a greater consistency in the policies of the agencies and better coordination of their programs in operation. This should mean also a simpler and clearer relation between the agencies of the Government and the public. Through these means, the Act will enable us better to adapt the Government for carrying out its responsibility of serving the people.⁵

Many in Congress are clamoring for some device to address the government's seeming inability to rationalize its own size and scope. Congressman Kevin Brady has recently proposed legislation that would establish a Federal Commission to examine the performance and purpose of government agencies. Under Congressman Brady's proposal, H.R. 1227, the commission would recommend to the Congress and the President abolishment or reorganization of agencies that cannot adequately defend their performance or purpose.

⁵ Statement by the President Upon Signing the Reorganization Act of 1945, December 20, 1945.

The 2004 Senate Budget resolution included a sense of the Senate amendment, offered by Senator Brownback, which endorsed the creation of a commission to:

[R]eview Federal domestic agencies, and programs within such agencies, with the express purpose of providing Congress with recommendations, and legislation to implement those recommendations, to realign or eliminate government agencies and programs that are duplicative, wasteful, inefficient, outdated, or irrelevant, or have failed to accomplish their intended purpose.⁶

These initiatives are aimed at streamlining the process by which Congress and the Administration consider improvements to government organization. The Reorganization Act has the benefit of a long history and precedent.

I want to note for the benefit of the Committee as it considers this idea that without the integration of other managerial flexibilities outlined in the President's FY 2004 Budget and the President's Management Agenda, the benefits of reorganization authority would be largely illusory. The Federal government needs modern asset and personnel management flexibilities. And the Human Capital Performance Fund will give agencies a critical tool in promoting pay-for-performance for Federal employees.

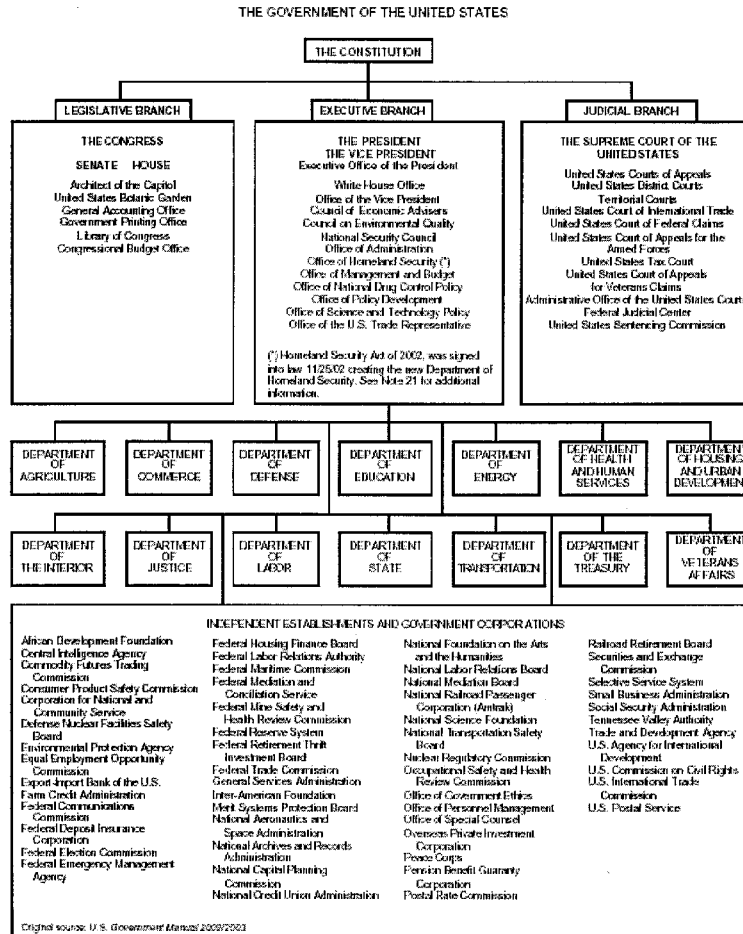
I don't want to leave the Committee with the impression that without reorganization authority, we cannot make substantial progress in improving government management. We are continuing to focus on a number of key areas in

⁶ S. AMDT. 282 to S. CON. RES. 23, To express the sense of the Senate that a commission be established to review the efficiency of Federal agencies, 108th Congress, First Session, (CR S4063-4071).

the context of the President's Management Agenda -- Strategic Management of Human Capital, Competitive Sourcing, Improved Financial Performance, Expanded Electronic Government, and Budget and Performance Integration. Congress and others have consistently supported the need for immediate management attention in these key areas.

In the face of a massive looming retirement wave, the United States government is hiring and retaining the right people with the right skills and holding them accountable for serving the American citizens. We are improving our business processes and ensuring that only the most effective and efficient source is providing government services. Because of the President's Management Agenda, the government is improving the quality and timeliness of financial information so that it can be used to manage federal programs and prevent waste, fraud, and abuse. We are providing enhanced services directly to citizens over the internet and improving the management of information technology. We are shining the light of day on the performance of Federal programs.

We will continue our drive to improve the performance and management of the Executive Branch. But as so many experts in the management of government have suggested, reorganization authority is another tool that could greatly enhance the prospect that government could be better structured to meet the challenges of the 21st century. I applaud this committee for considering this important proposal.



Chairman TOM DAVIS. We will now hear from the Comptroller General of the U.S. General Accounting Office, David Walker. Thank you for being with us, Mr. Walker.

Mr. WALKER. Thank you, Mr. Chairman and members. It is a pleasure to be here. I've got an extensive statement that I would like to be included into the record, if that's all right, Mr. Chairman.

Chairman TOM DAVIS. Fine.

Mr. WALKER. And I will now move to summarize the key points.

Given current trends facing the United States and its position in the world, as well as our growing fiscal challenges, there is a clear and compelling need to conduct a fundamental review and reassessment of what the Federal Government should do and how the Federal Government should do business in the 21st century. Looking at the organization of the Federal Government is an important part, but only a part of this overall effort. Executive reorganizational authority is a tool that has been available to many Presidents in the past—in fact, as you mentioned, Mr. Chairman, from 1932 until 1984. It has been used to varying degrees by different Presidents with mixed results. This authority lapsed in 1984 when President Ronald Reagan did not seek to reauthorize it.

In my opinion, Mr. Chairman, the time has come to consider such a reauthorization. In doing so, Congress should consider past reorganization experiences and recent proposals by this administration dealing with management and other reforms. Congress should consider the nature and scope of any proposed reorganization proposal in determining how much of its authority it wishes to give up and how many of its procedures it is willing to modify—such things as timeframes, the amount of debate, and whether or not amendments would be appropriate.

Clear differences may be appropriate in connection with policy-driven versus operationally motivated proposals. There needs to be a balance between reasonable flexibility to assure expedited action and appropriate safeguards to make sure that the Congress has an opportunity to engage in reasonable debate and deliberation.

Irrespective of the authority granted to the President, however, determining the appropriate process and players to be included in making specific recommendations to the Congress for its consideration will be of critical importance. In this regard, the first Hoover Commission was arguably the most successful. It involved a bipartisan commission comprised of members of both the Executive and the legislative branch, as well as representatives from the private sector.

Furthermore, even if a reorganization proposal is enacted into law, its successful implementation is far from assured based upon past history. In this regard, Congress should consider establishing chief operating officers in selected agencies to focus on planning, implementing, and integrating key management initiatives both within and between administrations.

Importantly, recent history shows that how any reorganization or management-related legislative proposal is designed and presented to the Congress makes a big difference in its likely outcome. For example, last year the administration presented two proposals. One was the Freedom to Manage Act, which was very broad, asked for expedited consideration, placed severe limits on the ability of the

Congress to consider the proposals or adopt amendments, was non-specific in nature, and it went nowhere.

Alternatively, the Managerial Flexibility Act was very specific, ironically went through the normal legislative process, and was largely incorporated into the Department of Homeland Security bill.

Nonetheless, I do believe that some reorganization authority is appropriate for the reasons that I talked about previously. It is finding that reasonable balance, and I think part of that has to do with not only the nature and scope of the legislation, but the process that is employed to make specific recommendations once that legislation is enacted into law and for consideration by the Congress.

Finally, GAO has already restructured itself. In light of its new strategic plan, which was done in connection with the Congress, we have streamlined our organization with very positive results and, quite frankly, our experiences are positive ones that could be shared with others, which we are willing to do.

In the final analysis, not only does the executive branch need to be restructured, but so does the legislative branch. But, from a practical standpoint, the executive branch must come first.

Furthermore, I would respectfully suggest, Mr. Chairman, that the executive branch needs a Government-wide strategic plan and performance plan and accountability plan, which it does not have right now. From an intellectual standpoint, you need something as a basis for conducting such a reorganization. We had that at GAO. Ultimately I think the executive branch is going to need that as well.

But in the final analysis, Mr. Chairman, we believe the time has come to work on reauthorizing some type of expedited reorganization authority to the President. We at GAO are here to help, and I would be happy to answer any questions that you may have. Thank you.

Chairman TOM DAVIS. Thank you very much.

[The prepared statement of Mr. Walker follows:]

GAO

United States General Accounting Office

Testimony

Before the Committee on Government Reform,
House of Representatives

For Release on Delivery
Expected at 10 a.m. EST
Thursday,
April 3, 2003

**EXECUTIVE
REORGANIZATION
AUTHORITY**

**Balancing Executive and
Congressional Roles in
Shaping the Federal
Government's Structure**

Statement of David M. Walker
Comptroller General of the United States





Highlights of GAO-03-624T, testimony
before the Committee on Government
Reform, House of Representatives

Why GAO Did This Study

GAO has sought to assist the Congress and the executive branch in considering the actions needed to support the transition to a more high performing, results-oriented, and accountable federal government. At the Committee's request, GAO provided perspective on the proposal to reinstate the authority for the President to submit government restructuring plans to the Congress for expedited review.

What GAO Recommends

The President and the Congress may wish to consider alternative provisions geared toward whether policy or operational issues are being considered. Further, they may wish to consider establishing processes (e.g., a commission) that provide for the involvement of key players and a means to help reach consensus on any specific restructuring proposals that would be submitted for consideration by the Congress.

www.gao.gov/cgi-bin/gettrpt?GAO-03-624T.

To view the full report, including the scope and methodology, click on the link above. For more information, contact Patricia A. Dalton at (202) 512-6806 or patd@gao.gov.

April 3, 2003

EXECUTIVE REORGANIZATION AUTHORITY

Balancing Executive and Congressional Roles in Shaping the Federal Government's Structure

What GAO Found

In view of the overarching trends and the growing fiscal challenges facing our nation, there is a need to consider the proper role of the federal government, how the government should do business in the future, and in some instances, who should do the government's business in the 21st century.

The fundamental issue raised by the proposal to grant reorganization authority to the President is not whether the government's organization can and should be restructured, but rather, whether and how the Congress wishes to change the nature of its normal deliberative process when addressing proposals to restructure the federal government. This testimony makes the following key points:

- Given current trends and increasing fiscal challenges, a comprehensive review, reassessment, and reprioritization of what the government does and how it does it is clearly warranted. This is especially vital in view of changing priorities and the compelling need to examine the base of government programs, policies, and operations since, given GAO's long-term budget simulations, the status quo is unsustainable over time.
- While the intent of such a review is desirable and some expedited congressional consideration may well be appropriate for specific issues, the Congress also has an important role to play in government reform initiatives, especially from an authorization and oversight perspective. In contrast to the past "one-size-fits-all" approaches in developing new executive reorganization authority, the Congress may want to consider different tracks for proposals that propose significant policy changes versus those that focus more narrowly on government operations. Further, Congress may want to consider establishing appropriate processes to ensure the involvement of key players, particularly in the legislative and executive branches, to help facilitate reaching consensus on specific restructuring proposals that would be submitted for consideration, should the Congress enact a new executive reorganization authority.
- Modern management practices can provide a framework for developing successful restructuring proposals. Such practices include: establishing clear goals, following an integrated approach, developing an effective human capital strategy, considering alternative program delivery mechanisms, and planning for both initial and long-term implementation issues to achieve a successful transformation. Furthermore, successful implementation will depend in part on continuing congressional oversight. The Congress could significantly enhance its efficiency and effectiveness by adapting its own organization to mirror changes in the executive branch.

United States General Accounting Office

Mr. Chairman and Members of the Committee:

Good morning. I appreciate the opportunity to discuss the proposal to reinstate the authority for the President to submit government restructuring plans to the Congress and obtain expedited review. Both the Congress and the administration are to be complimented for stating their intent to increase the focus on how to improve the efficiency and effectiveness of the federal government as we begin the 21st century. This hearing is evidence of such increased commitment.

GAO has sought to assist the Congress and the executive branch in considering the actions needed to support the transition to a more high performing, results-oriented, and accountable federal government. We believe that it is crucial for both the Congress and the executive branch to work together in a constructive manner on "good government" issues that are designed to improve the economy, efficiency and effectiveness of government on a continual basis. At the same time, the Congress has important constitutional authorization, appropriation, and oversight roles that must be considered.

The fundamental issue raised by the proposal to grant executive reorganization authority to the President is not whether the government's organization can and should be restructured, but rather how best to deal with this issue. In this regard, the recent Volcker Commission¹ and GAO have noted the need to review and revise the current federal government structure. Given that historically executive reorganization authority has included certain "fast track" provisions for congressional review, the question at hand is whether and how the Congress wishes to change the nature of its normal deliberative process when addressing proposals to restructure the federal government.

My statement today will focus on several key issues:

1. Given current trends and increasing fiscal challenges, a comprehensive review, reassessment, and reprioritization of what the government does and how it does it is clearly warranted. This is especially vital in view of changing priorities and the compelling need to examine the base of

¹National Commission on the Public Service, *Urgent Business for America: Revitalizing the Federal Government for the 21st Century* (Washington, D.C.: January 2003).

government programs, policies and operations since, given GAO's long range budget simulations, the status quo is unsustainable over time.

2. While the intent of such a review is desirable and some expedited congressional consideration may well be appropriate for specific issues, the Congress has an important role to play in management reform initiatives, especially from an authorization and oversight perspective. In the past, the Congress has adopted "fast track" approaches for specific areas. However, depending on the nature of future legislative proposals that will be submitted, they could have profound implications for the relative role the Congress plays in developing legislation and conducting oversight to enhance the performance and ensure the accountability of the executive branch. In contrast to the past "one-size-fits-all" approaches, in developing new executive reorganization authority, the Congress may want to consider different tracks for proposals that propose significant policy changes versus those that focus more narrowly on operations. Further, Congress may want to consider establishing appropriate processes (e.g., a commission) to ensure the involvement of key players to help reach consensus on any specific reorganization proposals that would be submitted for consideration by the Congress, should the Congress enact new executive reorganization authority.
3. Modern management practices can provide a framework for developing successful restructuring proposals. Such practices include: establishing clear goals, following an integrated approach, developing an effective human capital strategy, considering alternative program delivery mechanisms, and planning for both initial as well as long-term implementation issues. Furthermore, successful implementation will depend in part on continuing congressional oversight. The Congress could significantly enhance its efficiency and effectiveness by adapting its own organization to mirror changes in the executive branch.

Presumably, the Congress will want to obtain the input of GAO and other parties before enacting any substantive proposals. As a result, any timeframes for expedited consideration should allow for a reasonable period for this to occur.

This testimony draws upon our wide-ranging ongoing and completed work on government transformation, organization, and management issues. We also reviewed the history of major reorganization efforts as well as the legislative history of executive reorganization authority. We conducted our

work in accordance with generally accepted government auditing standards.

Need to Reexamine Government Structures to Meet 21st Century Challenges

The federal government is in a period of profound transition and faces an array of challenges and opportunities to enhance performance, ensure accountability, and position the nation for the future. As you know, our country's transition into the 21st century is characterized by a number of key trends including:

- the national and global response to terrorism and other threats to personal and national security;
- the increasing interdependence of enterprises, economies, civil society, and national governments, referred to as globalization;
- the shift to market-oriented, knowledge-based economies;
- an aging and more diverse U.S. population;
- advances in science and technology and the opportunities and challenges created by these changes;
- challenges and opportunities to maintain and improve the quality of life for the nation, communities, families, and individuals; and
- the changing and increasingly diverse nature of governance structures and tools.²

As the nation and government policymakers grapple with the challenges presented by these evolving trends, they do so in the context of an overwhelming fact: The fiscal pressures created by the retirement of the baby boom generation and rising health care costs threaten to overwhelm the nation's fiscal future. Our latest long-term budget simulations reinforce the need for change in the major cost drivers—Social Security and health care programs. By midcentury, absent reform of these entitlement programs and/or other major tax or spending policy changes, projected federal revenues may be adequate to pay little beyond interest on the debt

²U.S. General Accounting Office, *Strategic Plan 2002-2007* (Washington, D.C.: June 2002).

and Social Security benefits. Further, our recent shift from surpluses to deficits means that the nation is moving into the future in a weaker fiscal position.

In response to the emerging trends and long-term fiscal challenges the government faces in the coming years, we have an opportunity to create highly effective, performance-based organizations that can strengthen the nation's ability to meet the challenges of the 21st century and reach beyond our current level of achievement. The federal government cannot accept the status quo as a "given"—we need to reexamine the base of government programs, policies, and operations. We must strive to maintain a government that is effective and relevant to a changing society—a government that is as free as possible of outmoded commitments and operations that can inappropriately encumber the future, reduce our fiscal flexibility, and prevent future generations from being able to make choices regarding what roles they think government should play.

Many departments and agencies were created in a different time and in response to problems and priorities very different from today's challenges. Some have achieved their one-time missions and yet they are still in business. Many have accumulated responsibilities beyond their original purposes. Others have not been able to demonstrate how they are making a difference in real and concrete terms. Still others have overlapping or conflicting roles and responsibilities. Redundant, unfocused, and uncoordinated programs waste scarce funds, confuse and frustrate program customers, and limit overall program effectiveness.³

³U.S. General Accounting Office, *Managing in the New Millennium: Shaping a More Efficient and Effective Government for the 21st Century*, GAO/T-OGC-00-9 (Washington, D.C.: Mar. 29, 2000).

Our work has documented the widespread existence of fragmentation and overlap from both the broad perspective of federal missions and from the more specific viewpoint of individual federal programs. As new needs are identified, the common response has been a proliferation of responsibilities and roles to federal departments and agencies, perhaps targeted on a newly identified clientele, or involving a new program delivery approach, or, in the worse case scenario, merely layered onto existing systems in response to programs that have failed or performed poorly. Though our work also suggests that some issues may warrant involvement of multiple agencies or more than one approach, fragmentation and overlap adversely impacts the economy, efficiency and effectiveness and of the federal government.⁴

It is obviously important to periodically reexamine whether current programs and activities remain relevant, appropriate, and effective in delivering the government that Americans want, need, and can afford. This includes assessing the sustainability of the programs, as well as the effectiveness of the tools—such as direct spending, loan guarantees, tax incentives, regulation, and enforcement—that these programs embody. Many federal programs—their goals, organizations, processes, and infrastructures—were designed years ago to meet the needs and demands as determined at that time and within the technological capabilities of that earlier era. The recent report of the Volcker Commission similarly observed that “[f]ifty years have passed since the last comprehensive reorganization of the government” and that “[t]he relationship of the federal government to the citizens it services became vastly broader and deeper with each passing decade.”⁵ The commission recommended that a fundamental reorganization of the federal government into a limited number of mission-related executive departments was needed to improve its capacity to design and implement public policy.

We now have both an opportunity and an obligation to take a comprehensive look at what the government should be doing and how it should go about doing its work. Based on GAO’s own recent experiences with restructuring, such a fundamental reexamination of government

⁴U.S. General Accounting Office, *Managing for Results: Using the Results Act to Address Mission Fragmentation and Program Overlap*, GAO/AIMD-97-146 (Washington, D.C.: Aug. 29, 1997).

⁵National Commission on the Public Service, *Urgent Business for America: Revitalizing the Federal Government for the 21st Century* (Washington, D.C.: January 2003).

missions, functions, and activities could improve government effectiveness and efficiency and enhance accountability by reducing the number of entities managed, thereby broadening spans of control, increasing flexibility, and fully integrating rather than merely coordinating related government activities.

Balancing the Roles of the Congress and the Executive Branch in Developing Restructuring Proposals

Given the obvious case for reexamining the government's structure, the major issue for debate today is the question of whether and how to change the Congress' normal deliberative process for reviewing and shaping executive branch restructuring proposals. Such authority can serve to better enable presidential leadership to propose government designs that would be more efficient and effective in meeting existing and emerging challenges.

Presidential leadership is critical to set goals and propose the means—the organizational design and policy tools—needed to achieve the goals. However, it is important to ensure a consensus on identified problems and needs, and to be sure that the solutions our government legislates and implements can effectively remedy the problems we face in a timely manner. Fixing the wrong problems, or even worse, fixing the right problems poorly, could cause more harm than good.

Congressional deliberative processes serve the vital function of both gaining input from a variety of clientele and stakeholders affected by any changes and providing an important constitutional check and counterbalance to the executive branch. The statutory framework for management reform enacted during the 1990s demonstrates the Congress' capacity to deal with governmentwide management reform needs. The Congress sought to improve the fiscal, program, and management performance of federal agencies, programs, and activities. For example, the Government Performance and Results Act (GPRA) is a central component of the existing statutory management framework, which includes other major elements, such as the Chief Financial Officers (CFO) Act, and information resource management improvements, such as the Clinger-Cohen Act. These laws provide information that is pertinent to a broad range of management-related decisions to help promote a more results-oriented management and decision-making process, regardless of what organizational approach is employed.

The normal legislative process, which by design takes time to encourage thorough debate, does help to ensure that any related actions are carefully

considered and have broad support. The Congress has played a central role in management improvement efforts throughout the executive branch and has acted to address several high-risk areas through both legislative and oversight activities. Traditionally, congressional and executive branch considerations of policy trade-offs are needed to reach a reasonable degree of consensus on the appropriate federal response to any substantive national need.

It is imperative that the Congress and the administration form an effective working relationship on restructuring initiatives. Any systemic changes to federal structures and functions must be approved by the Congress and implemented by the executive branch, so each has a stake in the outcome. Even more importantly, all segments of the public that must regularly deal with their government—individuals, private sector organizations, states, and local governments—must be confident that the changes that are put in place have been thoroughly considered and that the decisions made today will make sense tomorrow.

Only the Congress can decide whether it wishes to limit its powers and role in government reorganizations. As part of the legislative branch, we at GAO obviously have some concerns regarding any serious diminution of congressional authority. In certain circumstances, the Congress may deem limitations appropriate; however, care should be taken regarding the nature, timing, and scope of any related changes. Lessons can be learned from prior approaches to granting reorganization authority to the President. Prior successful reorganization initiatives reinforce the importance of maintaining a balance between executive and legislative roles in undertaking significant organizational changes. Safeguards are needed to ensure congressional input and concurrence on the goals as well as overall restructuring proposals. In the final analysis, the Congress must agree with any restructuring proposals submitted for consideration by the President in order for them to become a reality.

Prior Executive
Reorganization Authority
Reflected Changing Balance
between Legislative and
Executive Roles

Periodically, between 1932 and 1984, the Congress provided the President one form or another of expedited reorganization authority.⁶ Most of the authority granted during this period shared three characteristics.

- First, most previous authorities established rules that allowed the President's plan to go into effect unless either house acted by passing a motion of disapproval within a fixed period. However, in accordance with the 1983 *Chadha* decision,⁷ which held the one-house legislative veto unconstitutional, the most recent expedited reorganization authority, granted to President Reagan in 1984, required passage of a joint affirmative resolution by both houses and signed by the President to approve any presidential reorganization plan. Hence, the need for both houses to positively approve a president's plan for it to take effect set a higher bar for success and in essence gave the Congress a stronger role than in the past.
- Second, between 1949 and 1984, the Congress increasingly limited the scope of what the President could propose in a reorganization plan, which also had the effect of enhancing congressional control. For example, whereas in 1949, there were few restrictions on what the President could propose, the Reorganization Act of 1977 prohibited plans that, among other things, established, abolished, transferred, or consolidated departments or independent regulatory agencies.
- Third, expedited reorganization authority during this period limited the period of time during which a President could propose any reorganization plans. Clearly, the extent to which the Congress was willing to cede its authority to oversee the President's reorganization plans has been an important variable in designing such provisions.

⁶Ronald C. Moe, Congressional Research Service, *The President's Reorganization Authority: Review and Analysis* (Washington, D.C.: Mar. 8, 2001).

⁷*Immigration and Naturalization Service v. Chadha*, 462 U.S. 919 (1983).

Successful Government Restructurings Balanced Executive and Legislative Roles

Throughout the 20th century, efforts to structure the federal government to address the economic and political concerns of the time met with varying degrees of success. The first Hoover Commission,⁸ which lasted from 1947 to 1949, is considered by many to have been the most successful of government restructuring efforts. The membership was bipartisan, including members of the administration and both houses of the Congress. Half its members were from outside government. The commission had a clear vision, making reorganization proposals that promoted what they referred to as "greater rationality" in the organization and operation of government agencies and enhanced the president's role as the manager of the government—principles that were understood and accepted by both the White House and the Congress.⁹ Former President Hoover himself guided the creation of a citizens' committee to build public support for the commission's work. More than 70 percent of the first Hoover Commission's recommendations were implemented, including 26 out of 35 reorganization plans. According to the Congressional Research Service, "the ease with which most of the reorganization plans became effective reflected two factors: the existence of a consensus that the President ought to be given deference and assistance by Congress in meeting his managerial responsibilities and the fact that most of the reorganization plans were pretty straightforward proposals of an organizational character."¹⁰

⁸The commission's formal name was the Commission on Organization of the Executive Branch. Its membership: Former President Herbert Hoover, Dean Acheson, Sen. George Aiken, Rep. Clarence Brown, Arthur Flemming, James A. Forrestal, Joseph P. Kennedy, Rep. Carter Manasco, Sen. John L. McClellan, George Mead, James K. Pollock, and James Rowe.

⁹Ronald C. Moe, *The Hoover Commissions Revisited* (Boulder, Colorado: Westview Press, 1982), 2.

¹⁰Ronald C. Moe, Congressional Research Service, *The President's Reorganization Authority: Review and Analysis* (Washington, D.C.: Mar. 8, 2001).

By contrast, the second Hoover Commission, which lasted from 1953 to 1954, had a makeup very similar to that of the first, but it did not have the advance backing of the President and the Congress. Hoover II, as it was called, got into policy areas with the goal of cutting government programs. But it lacked the support of the President, who preferred to use his own advisory group¹¹ in managing the government. It also lacked the support of the Congress and the public, neither of which cared to cut the government at a time when federally run programs were generally held in high esteem and considered efficient and beneficial.¹² More than 60 percent of Hoover II's recommendations were implemented, but these were mostly drawn from the commission's technical recommendations rather than from its major ones (such as changing the government's policies on lending, subsidies, and water resources) that would have substantively cut federal programs.¹³

The lesson of the two Hoover Commissions is clear: If plans to reorganize government are to move from recommendation to reality, creating a consensus for them is essential to the task. In this regard, both the process employed and the players involved in making any specific reorganization proposals are of critical importance. The success of the first Hoover Commission can be tied to the involvement and commitment of both the Congress and the President. Both the legislative branch and executive branches agreed to the goals. With this agreement, a process was established that provided for wide spread involvement, including citizens, and transparency so that meaningful results could be achieved.

That lesson shows up again in the experience of the Ash Council, which convened in 1969-70. Like the first Hoover Commission, the Ash Council aimed its recommendations at structural changes to enhance the effectiveness of the President as manager of the government. In addition to

¹¹Called PACGO (the President's Advisory Council on Government Organization), it was chaired by Nelson Rockefeller from 1953-1958. PACGO drafted 14 reorganization plans that were presented to the President and accepted by the Congress. Ronald C. Moe, *Reorganizing the Executive Branch in the Twentieth Century: Landmark Commissions*, (Washington, D.C.: Congressional Research Service, Mar. 19, 1992), 34.

¹²Moe, 105.

¹³Summary of the Objectives, Operations, and Results of the Commissions on Organization of the Executive Branch of the Government (First and Second Hoover Commissions), House Committee on Government Operations, (Washington, D.C.: May 1963), 31-33.

renaming the Bureau of the Budget the Office of Management and Budget, the Ash Council proposed organizing government around broad national purposes by integrating similar functions under major departments. It proposed that four super departments be created—economic affairs, community development, natural resources, and human services—with State, Defense, Treasury, and Justice remaining in place. But the Ash Council could not gain the support of the Congress. Its recommendations would have drastically altered jurisdictions within the Congress and the relationships between committees and the agencies for which they had oversight responsibilities. The Congress was not thoroughly clear on the implications of the four super departments, was not readily willing to change its own structure to parallel the structure proposed by the council, and was not eager to substantially strengthen the authority of the presidency.

Once again, the lesson for today is that reorganizing government is an immensely complex and politically charged activity. Those who would reorganize government must make their rationale clear and must build a consensus for change before specific proposed reorganizations are submitted to Congress if they are to see their efforts bear fruit. It is important that all players, particularly the Congress and the President, reach agreement on restructuring goals and establish a process to achieve their objectives that provides needed transparency if anything substantive is to be achieved. The process may vary depending on the significance of the changes sought. However, the risk of failure is high without having the involvement of key players and a process to help reach consensus on specific reorganization proposals that are submitted to the Congress for its consideration.

A final important lesson from these prior experiences is that a balance must be struck between the need for due deliberation and the need for action. A distinction also needs to be made between policy choices and operational choices. Relatively straightforward reorganization proposals that focus on operational issues appear to have met with greater success than those that addressed more complex policy issues. For example, proposals to eliminate programs, functions, or activities typically involve policy choices. On the other hand, a proposal to consolidate those same activities within a single organization is more focused on management effectiveness and efficiency, than on policy changes. Therefore, in contrast to the past "one-size-fits-all" approaches, in again granting expedited reorganization authority to the President, the Congress may wish to consider different tracks that allow for a longer period for review and

debate of proposals that include significant policy elements as opposed to operational elements.

Modern Management Practices Provide a Framework for Restructuring Proposals

Three years ago, I testified that the challenge for the federal government at the start of the 21st century is to continue to improve and to translate the management reforms enacted by the Congress in the 1990s into a day-to-day management reality across government.¹⁴ Restructuring can be an important tool in this effort. Restructuring efforts must, however, be focused on clear goals. Further, irrespective of the number and nature of federal entities, creating high-performing organizations will require a cultural transformation in government agencies. Hierarchical management approaches will need to yield to partnerial approaches. Process-oriented ways of doing business will need to yield to results-oriented ones. Siloed organizations—burdened with overlapping functions, inefficiencies and turf battles—will need to become more horizontal and integrated organizations if they expect to make the most of the knowledge, skills, and abilities of their people. Internally focused agencies will need to focus externally in order to meet the needs and expectations of their ultimate clients—the American people. In the coming month, I plan to convene a forum to discuss steps federal agencies can take to become high-performing organizations.

GAO is leading by example. To create a world-class professional services organization, we have undertaken a comprehensive transformation effort over the past few years. Our strategic plan, which is developed in consultation with the Congress, is forward looking and built on several key themes that relate to the United States and our position in the world community. We restructured our organization in calendar year 2000 to align with our goals, resulting in significant consolidation—going from 35 to 13 teams, eliminating an extra organizational layer, and reducing the number of field offices from 16 to 11. We have become more strategic, results-oriented, partnerial, integrated, and externally focused. Our scope of activities includes a range of oversight-, insight-, and foresight-related engagements. We have expanded and revised our products to better meet client needs. In addition, we have re-defined success in results-oriented terms and linked our institutional and individual performance measures.

¹⁴U.S. General Accounting Office, *Managing In The New Millennium : Shaping a More Efficient and Effective Government for the 21st Century*, GAO/T-OCG-00-9 (Washington, D.C.: Mar. 29, 2000).

We have strengthened our client relations and employed a "constructive engagement approach" to those we review. The impact on our results has been dramatic. Several of our key performance measures have almost doubled and our client feedback reports satisfaction has also improved.

There are six important elements to consider for a successful reorganization—establishing clear goals, taking an integrated approach, developing a comprehensive human capital strategy, selecting appropriate service delivery mechanisms, managing the implementation, and providing effective oversight.

Clear goals. The key to any reorganization plan is the creation of specific, identifiable goals. The process to define goals will force decision makers to reach a shared understanding of what really needs to be fixed in government, what the federal role really ought to be, how to balance differing objectives, and what steps need to be taken to create not just short-term advantages but long-term gains. The mission and strategic goals of an organization must become the focus of the transformation, define the culture, and serve as a vehicle to build employee and organizational identity and support. Mission clarity and a clear articulation of priorities are critical, and strategic goals must align with and support the mission and serve as continuing guideposts for decision making. New organizations must have a clear set of principles and priorities that serve as a framework for the organization, create a common culture, and establish organizational and individual expectations.

The most recent restructuring, the formation of the Department of Homeland Security (DHS), illuminates this point. There was clear national consensus that a new national goal and priority was homeland security. With agreement on the mission and goals of this new department, the various activities and functions scattered throughout the government could be identified and moved into the new department. Building a framework of clearly articulated goals facilitates any restructuring effort. This is true for both the initial design and the implementation.

The government today is faced with many challenges. In considering restructuring, it is important to focus on not just the present but the future trends and challenges. Identification of goals to address these trends and challenges provides a framework for achieving consensus and organizational design. In fact, the effects of any reorganization are felt more in the future than they are today. The world is not static. Therefore, it is vital to take the long view, positioning the government to meet the

challenges of the 21st century. Regardless of the immediate objectives, any reorganization should have in mind certain overarching goals: a government that serves the public efficiently and economically, that is run in a sound, businesslike fashion with full accountability, and that is flexible enough to respond to change.

Integrated approach. The importance of seeing the overall picture cannot be overestimated. Reorganization demands a coordinated approach, within and across agency lines, supported by solid consensus for change. One cannot underestimate the interconnectedness of government structure and activities. Make changes here, and you will certainly affect something over there. Our work has certainly illuminated the interconnectedness of federal programs, functions, and activities.

DHS again provides lessons. Though many homeland security responsibilities, functions, and activities have been brought under the umbrella of DHS, many remain outside. DHS will have to form effective partnerships throughout the federal government—on intelligence functions, health issues, science activities. In addition, partnerships will be required outside the federal government—state and local governments, private sector organizations, and the international community, if DHS is to successfully accomplish its mission.

We have previously reported that the Government Performance and Results Act (Results Act) could provide a tool to reexamine roles and structure at the governmentwide level. The Results Act requires the President to include in his annual budget submission a federal government performance plan. The Congress intended that this plan provide a "single cohesive picture of the annual performance goals for the fiscal year." The governmentwide performance plan could be a unique tool to help the Congress and the executive branch address critical federal performance and management issues. It also could provide a framework for any restructuring efforts. Unfortunately, this provision has not been fully implemented.

Beyond an annual performance plan, a strategic plan for the federal government might be an even more useful tool to provide broad goals and facilitate integration of programs, functions, and activities, by providing a longer planning horizon. In the strategic planning process, it is critical to achieve mission clarity in the context of the environment in which we operate. With the profound changes in the world, a re-examination of the roles and missions of the federal government is certainly needed. From a

clearly defined mission, goals can be defined and organizations aligned to carrying out the mission and goals. Integration and synergy can be achieved between components of the government and with external partners to provide more focused efforts on goal achievement.

If fully developed, a governmentwide strategic plan can potentially provide a cohesive perspective on the long-term goals for a wide array of federal activities. Successful strategic planning requires the involvement of key stakeholders. Thus, it could serve as a mechanism for building consensus. The process of developing the plan could prompt a more integrated and focused discussion between the Congress and the administration about long-term priorities and how agencies interact in implementing those priorities. Further, it could provide a vehicle for the President to articulate long-term goals and a road map for achieving them. In the process, key national performance indicators associated with the long-term goals could be identified and measured.

In addition, a strategic plan can provide a much needed framework for considering any organizational changes and making resource allocation decisions. Essentially, organizations and resources (e.g., human, financial, and technological) are the ways and means of achieving the goals articulated by the strategic plan. Organizations should be aligned to be consistent with the goals and objectives of the strategic plan. Clear linkages should exist between the missions and functions of an organization and the goals and objectives it is trying to achieve. In making the trade-offs in resource decisions, a strategic plan identifies clear priorities and forms a basis for allocating limited resources for maximum effect.

The process of developing a strategic plan that is comprehensive, integrated, and reflects the challenges of our changing world will not be easy. However, the end result could be a government that serves the public efficiently and economically, that is run more efficiently and effectively with full accountability, and that is flexible enough to respond to our rapidly changing world.

Human capital strategy. People are an organization's most important asset, and strategic human capital management should be the centerpiece of any transformation or organizational change initiative. An organization's people define its character, affect its capacity to perform, and represent the knowledge base of the organization.

Since 2001, we have designated human capital management as a governmentwide high risk. The Congress and the executive branch have taken a number of steps to address the federal government's human capital shortfalls. However, serious human capital challenges continue to erode the ability of many agencies, and threaten the ability of others, to economically, efficiently, and effectively perform their missions. A consistent, strategic approach to maximize government performance and ensure its accountability is vital to the success of any reorganization efforts as well as to existing organizations.

A high-performance organization focuses on human capital. Human capital approaches are aligned with mission and goal accomplishment. Strategies are designed, implemented, and assessed based on their ability to achieve results and contribute to the organization's mission. Leaders and managers stay alert to emerging mission demands and human capital challenges. They reevaluate their human capital approaches through the use of valid, reliable, and current data, including an inventory of employee skills and competencies. Recruiting, hiring, professional development, and retention strategies are focused on having the needed talent to meet organizational goals. Individual performance is clearly linked with organizational performance. Effective performance management systems provide a "line of sight" showing how unit, team, and individual performance can contribute to overall organizational goals.

Human capital strategies need to be built into any restructuring efforts. The Congress has recognized the importance of human capital in recent restructuring efforts. For example, in the creation of DHS and the Transportation Security Agency (TSA), human capital issues were addressed directly with the granting of flexibilities to improve the effectiveness of their workforces. Thus, human capital issues need to be addressed in both the design and implementation of any organization.

Service delivery mechanisms. Once goals are defined, attention must be paid not only to how the government organizes itself but also to the tools it uses to achieve national goals. The tools for implementing federal programs include, for example, direct spending, loans and loan guarantees, tax expenditures, and regulations. A hallmark of a responsive and effective government is the ability to mix public/private structures and tools in ways that are consistent with overriding goals and principles while providing the best match with the nature of the program or service. The choice of tools will affect the results the government can achieve. Therefore,

organizations must be designed to effectively use the tools they will employ.

In most federal mission areas—from low-income housing to food safety to higher education assistance—national goals are achieved through the use of a variety of tools and, increasingly, through the participation of many organizations that are beyond the direct control of the federal government. This environment provides unprecedented opportunities to change the way federal agencies are structured to do business internally and across boundaries with state and local governments, nongovernmental organizations, private businesses, and individual citizens.

Implementation. No matter what plans are made to reorganize the government, fulfilling the promise of these plans will depend on their effective implementation. The creation of a new organization may vary in terms of size and complexity. However, building an effective organization requires consistent and sustained leadership from top management to ensure the needed transformation of disparate agencies, programs, functions, and activities into an integrated organization. To achieve success, the end result should not simply be a collection of component units, but the transformation to an integrated, high-performance organization. The implementation of a new organization is an extremely complex task that can take years to accomplish. It is instructive to note that the 1947 legislation creating the Department of Defense was further changed four times by the Congress in order to improve the effectiveness of the department. Despite these changes, DOD continues to face a range of major management challenges, with six agency-specific challenges on our 2003 list and three governmentwide challenges. Start-up problems under any reorganization are inevitable but can be mitigated by comprehensive planning and strong leadership.

An implementation plan anchored by an organization's mission, goals and core values is critical to success.¹⁵ An implementation plan should address the complete transition period, not just the first day or the first year. It must go beyond simply the timetable for the organization's creation, consolidation, or elimination. Effective implementation planning requires identification of key activities and milestones to transform the organization

¹⁵U.S. General Accounting Office, *Mergers and Transformation: Lessons Learned for a Department of Homeland Security and Other Federal Agencies*, GAO-03-293SP (Washington, D.C.: Nov. 14, 2002).

into a fully integrated, high-performance organization and establish accountability for results. Careful planning and attention to management practices and key success factors, such as strategic planning, information technology, risk management, and human capital management, are important to overall results. A human capital strategic plan must be developed. It is vital to have key positions filled with people who possess the critical competencies needed by the organization. Further, systems and processes need to be tailored to and integrated within the organization. The experiences of TSA highlight the need for long-term planning. A year after being set up, although great progress has been made, TSA still faces numerous challenges—ensuring adequate funding; establishing adequate cost controls; forming effective partnerships to coordinate activities; ensuring adequate workforce competence and staffing levels; ensuring information systems security; and implementing national security standards.

Top leadership must set priorities and focus on the most critical issues. While top leadership is essential and indispensable, it will be important to have a broad range of agency leaders and managers dedicated to the transformation process to ensure that changes are thoroughly implemented and sustained over time. Dedicated management leadership can free the head of the organization from day-to-day operational and administrative issues, allowing time to focus on mission priorities.

One approach to providing the sustained management attention essential for addressing key infrastructure and stewardship issues while helping facilitate the transition and transformation process is the creation of a chief operating officer (COO) position within selected federal agencies. To be successful, a COO must have a proven track record in a related position and high profile—reporting directly to the agency head, and be vested with sufficient authority to achieve results. Since successful restructurings often take a considerable amount of time, 5 to 7 years being common, a term appointment of up to 7 years might be warranted. To further clarify accountability, the COO should be subject to a clearly defined, results-oriented performance contract with appropriate incentives, rewards, and accountability mechanisms.¹⁶

¹⁶U.S. General Accounting Office, *Highlights of a GAO Roundtable: The Chief Operating Officer Concept: A Potential Strategy to Address Federal Governance Challenges*, GAO-03-192SP (Washington, D.C.: Oct. 4, 2002).

Oversight. Congressional involvement is needed not just in the initial design of the organization, but in what can turn out to be a lengthy period of implementation. The Congress has an important role to play—both in its legislative and oversight capacities—in establishing, monitoring, and maintaining progress to attain the goals envisioned by government transformation and reorganization efforts.

Sustained oversight by the Congress is needed to ensure effective implementation. The understanding by the Congress of the various agencies will provide a measure of whether the reorganization is accomplishing its goals and whether it needs further refinement. Assessing progress is important to ensuring implementation is moving in the right direction.

To ensure effective implementation, along with efficient and effective oversight, the Congress will also need to consider realigning its own structure. With changes in the executive branch, the Congress should adapt its own organization in order to improve its efficiency and effectiveness. Most recently, the Congress has undertaken a reexamination of its committee structure, with the implementation of DHS. In fact, the DHS legislation instructed both houses of Congress to review their committee structures in light of the reorganization of homeland security responsibilities within the executive branch.

In summary, the key issue at hand is how to make changes and reforms and what the respective roles of the Congress and the executive branch should be in the process. Only the Congress can decide whether it wishes to limit its powers and role in government reorganizations. As part of the legislative branch, I obviously have some concerns about any serious diminution of your authority. In certain circumstances, the Congress may deem it appropriate. A distinction needs to be made between policy choices and operational choices, and a balance must be struck between the need for due deliberation and the need for action in these different cases. The Congress may wish to consider a longer period for review and debate of proposals that include significant policy elements versus operational elements. Further, the President and the Congress may wish to consider establishing a process (e.g., a commission), that provides for the involvement of the key players and a means to help reach consensus on any specific restructuring proposals that would be submitted for consideration by the Congress.

In view of the overarching trends and the long-term fiscal challenges facing our nation, there is a need to consider the proper role of the federal government, how the government should do business in the future, and in some instances, who should do the government's business in the 21st century. Evaluating the role of government and the programs it delivers within the context of the major trends facing our nation and our increasing fiscal challenges it faces is key in determining how best to address the country's most pressing priorities. It is increasingly important that federal programs use tools to manage effectively across boundaries and work in conjunction with the priorities and needs of American citizens; international, federal, state, and local governments; and the private and nonprofit sectors. This is an opportune time for the Congress to carefully consider how to make needed changes in the short term to help agencies effectively manage their resources and link resource decisions to results as well as to work toward a comprehensive and fundamental reassessment of what the government does, how it does it, and who should do the government's business.

Mr. Chairman, this concludes my prepared statement. We at GAO look forward to continuing to "lead by example" in connection with government transformation efforts and to assisting the Congress with related matters. I would be pleased to respond to any questions that you or other Members of the Committee may have.

Chairman TOM DAVIS. Let me start the questioning.

Ms. Dorn, let me talk to you as a representative of the administration. I strongly support this legislation. The previous administration supported this, too. They could never get it through. Congress has been a stumbling block because it is perceived we give up some of our authority, what we give the executive branch, but this is basically a fast track for reorganization. That's what this legislation is.

One of the difficulties we have—I represent a District with a number of Federal employees, Mrs. Davis does, and some other Members do—is because of the pay component that came forward this year, because of the reorganization authority, we have some employee groups who are very nervous about giving this administration authority to reorganize. It seems to me we have to put in appropriate safeguards. And the key, of course, is how you write these.

I'm a strong supporter of doing this legislation or we wouldn't be holding this hearing, and we are going to find a way to try to move this through, but what kind of safeguards would you envision that we could put in that would protect employees' rights that they currently have? There is a fear that as you reorganize they may lose rights. There's a secondary fear that if you reorganize you'll lose jobs, and that, of course, can happen. But we can't concern ourselves with that. Our job here isn't to protect jobs, it is to make Government run more efficiently. But the people that are there, we don't want them to lose their rights and stuff and use this as a carte blanche to start changing the rules from under them. If we get into that, we'll never get this legislation through and no one will be able to. That's kind of the quandary we are in as we look at this.

Any thoughts? And you can get back to us if you don't want to say anything now, but that's something we have got to address.

Ms. DORN. Well, Mr. Chairman, I think if you look back over the 2½ years now of this administration and the President's interest in management and in assuring that the Government delivers results, it has not been couched in specific budget savings or specific employee cuts. I think our focus has been, as it was in the creation of the Department of Homeland Security, ensuring that the Government delivers to the public the services and the benefits as efficiently as possible.

We recognize that this is a significant issue for many to give the executive branch broad authority to propose legislation and have it considered. In and of itself, it doesn't get you anything.

Chairman TOM DAVIS. That's right.

Ms. DORN. So I guess the—

Chairman TOM DAVIS. It's a procedure.

Ms. DORN. It is a procedure in order to get proposals before the Congress and considered as in an expeditious fashion.

Chairman TOM DAVIS. Well, let me just say this. I mean, it is going to be our goal as we move this through to make sure there are adequate protections for Federal workers and Federal employees. That's appropriate. This is—the idea of this is not to try to change the rules out from under them and change that. We can do that separately if we want to do that, but this legislation is not

that tool. This will just allow you to organize like you did Homeland Security and work more efficiently, and we'd like to work with you to kind of craft that language.

What this legislation really does, in my opinion, is it protects Congress from itself and all the many turf battles that we go through. Every time you try to reorganize something every committee wants to make sure they have their piece and stand up. You can't deal with that kind of inflexibility, and that's our goal. Do you agree with that?

Ms. DORN. I certainly do. We have had numerous experiences of trying to do this in a piecemeal fashion, and in a piecemeal fashion to try to achieve a very modest benefit in a particular area in a particular department. You fight a sometimes lengthy and in the end unsuccessful battle. If one person on one committee in one chamber of the Congress wishes to stop that, they can certainly hamper what would seem to the majority to be a very good idea.

So if there is a way to work with the Congress in order to get some generic authority that would allow us to propose both reorganizations big and small, I think when you look at this broad authority it comes to you very quickly that this could be about the reorganization of an entire department or it could be as narrow as streamlining something inside of a department or moving a function of a department to another one.

Chairman TOM DAVIS. I also envision some language in here where there is consultation written in here between—obviously, if you don't consult at the end of the day you may end up with eight proposals that were dumped in under the previous legislation and wouldn't move through. But we want to make everybody comfortable with this. But the concept is a very clear one. You've got to constantly reorganize, retool, reengineer your organization to get it done, and if you have to come to Congress and go through the committee structure that we have here today, it just takes forever and a day. You just never get it done. And the old adage there's nothing closer to eternal life than a Federal agency once it is created—that's not where we're trying to go.

I think at the end of the day we could be a lot more productive, we can save money, employees' rights can be enhanced if we do this correctly.

Let me ask Mr. Walker, in your testimony you said there's a difference between using an Executive reorganization authority to effect changes in policy such as eliminating Federal functions or activity and using the authority to improve the operations and management of the Federal Government, such as combining together offices that perform the same function. Is there a way to make a distinction in this legislation?

Mr. WALKER. I think there is, Mr. Chairman. I think there are a couple of things that I would offer for you. Depending upon the nature of the proposal that would be coming forth—in other words, is it primarily for operational efficiency or is it for program elimination? The first is obviously a management issue. It is an operational issue and clearly ought to be able to be considered on a fast track. On the other hand, to the extent that you're talking about eliminating a program, that's obviously a policy matter. It seems to me that you may want to consider differentiation between what

the track would be and what Congress' role would be in that regard.

The other thing that I believe is absolutely critical, Mr. Chairman, is, irrespective of what authority ultimately the Congress decides to grant to the President, should it decide to do so, the process and the players that will be employed in making specific proposals to the Congress for expedited consideration I believe will be of critical importance.

The most successful model in the past was the bipartisan executive, legislative branch representatives with some private sector representation, the Hoover Commission One approach. That was by far the most successful, so I think we need to be thinking beyond just how the legislation would be structured, but that could be an important safeguard, as well. That could be an important safeguard to try to make sure that there is a reasonable balance and that increases the likelihood of ultimate enactment into law, because if you have the authority but you don't get anything enacted, it really doesn't make much difference.

Chairman TOM DAVIS. That's correct. OK. Well, as I said, this isn't just a procedure that we think makes reorganization more likely. It incentivizes the executive branch to do that. What I've found is that when we try to decree these things from the legislative branch, without the cooperation from the executive branch it doesn't work. This is a partnership, we think a procedure that will hold administrations accountable basically for waste in Government. Instead of complaining about the system, then the onus moves to them to try to change it. I think, from our perspective, that ought to be a good thing. And they can propose what they want and we can vote it up or down and the political chips can fall where they may.

Thank you for being here. As I said, we heard from Chairman Volcker and Secretary Shalala last time. There was a pretty good bipartisan consensus of people who had served in Republican and Democratic administrations that this is an essential tool, but the devil is always in the details. If you'll work with us, hopefully we can come up with something.

I now yield to the gentleman from Maryland—we have two gentlemen from Maryland here. Whichever. The two gentlemen over there, I'll let you decide.

Mr. RUPPERSBERGER. Thank you, Mr. Chairman.

Chairman TOM DAVIS. Mr. Ruppertsberger, thank you for being with us.

Mr. RUPPERSBERGER. First, I think your testimony was excellent. I agree that we need to move forward with this reauthorization. One question: why did it take so long to get to where we are now, and why did the previous—what President was it 20 years ago? Why was this authority taken away?

Mr. WALKER. It wasn't taken away. It had to be reauthorized and President Reagan did not seek reauthorization. I don't know why he didn't seek reauthorization, but it is something that existed in the law from 1932 to 1984 but had to be periodically reauthorized, it is my understanding it is now on the table, whether or not to reauthorize it.

Mr. RUPPERSBERGER. Well, you know, whatever party we're in, the President of the United States is really responsible for the operation of the Government, and it is important. I think you made the comment that the delivery of services to our citizens, our constituents is part of—really, most of what we do, whether it is military, whatever, education, whatever issue is there.

I think—and I agree—well, there's only two other Democrats here, but I agree with Majority Leader DeLay that we need to move and we need to move quickly, but because we move quickly doesn't mean we have to do it the wrong way. I think that it is very important that we still maintain our check and balances. That's important. That's our system of government and it works.

The question I have, moving as quickly as we can—because if we study anything too long in this body, it will just be put on the shelf and it is gone, and time is to act now. I think what really needs to be done, though—and it is an issue that I know that we've discussed and we've had testimony on—when you're talking to the employees, your employees are the front line and they're the ones that are executing, and it's just not about pay, it is about the employees motivating—management and leadership motivating the employees, letting the employees feel they are a part of the operation, they are shareholders of this operation.

With that said, what do you think the oversight would be of Congress? If we were to move quickly, if we were able to get what we need to move this bill quickly, what would you see the role and the oversight of Congress without interfering with what we're trying to accomplish here?

Ms. DORN. Congressman, I think that the broad authority here would be the prelude to the actual use of this. If we got this kind of authority in law, the administration would then be empowered to start to deal with some of these issues that currently many managers don't have the heart and the stomach to take on in an individual effort. Basically, we would have to—we would sort of move this to the top of the agenda. As we put forward specific plans, it would be my thought that the administration would be crazy not to consult with the Congress before those specific plans were put forward. If we got this authority and the first three uses of it were unsuccessful, I think that certainly would set us back.

As the chairman pointed out, I think this is a partnership between the executive and the legislative branches to move the Government into the modern age. It shouldn't be used as a brash use of unilateral authority, in my judgment. It wouldn't be successful and it probably would be taken away.

Mr. RUPPERSBERGER. But if you don't have the guidelines, if you don't have the checks and balances, if, in fact, Congress feels that the President might be going too far as it relates to employees, as an example, as it relates to your workers as an example, I think you have to have something in writing, guidelines that are there, because this bill—this reauthorization would involve generations to come, too, and if it is done the right way, we're going to get where we need to be.

Mr. Walker.

Mr. WALKER. I think Government needs to make more decisions differentiating between what is done based upon the value and the

risk associated with a potential proposal. In this regard, I think that you could end up having expedited procedures that could differ, depending upon what the nature of the proposal would be. For certain types of proposals, you may have very fast track with, you know, limited debate and no authorized amendments and may not require, you know, advance—it may not require to go through a bipartisan and executive-legislative-branch-comprised commission.

For other types of things that are more substantive and more comprehensive and more sweeping, you may decide you want different timeframes or different debate times or different abilities to amend, but limited amendment, because I think it is critical that you do that, and you may want it to go through some type of a commission proposal.

So I think we need to be thinking more about what are we trying to accomplish. One size doesn't fit all, and how can you establish reasonable safeguards and appropriate mechanisms to hopefully achieve the desired outcome, which is to get things enacted into law that will improve the economy, efficiency, and effectiveness and responsiveness of the Federal Government for the benefit of the American people.

Mr. RUPPERSBERGER. In closing, I think the Volcker Commission—I was very impressed with their testimony. I think I was impressed with the fact it was a bipartisan issue to move forward, taking into consideration, you know, our workers. But again I say this, and agree with Majority Leader DeLay—the time is right now. Efficiencies will benefit our constituents and will benefit our workers, and I would hope we can move this as quickly as possible.

Chairman TOM DAVIS. Thank you very much.

Mrs. Davis.

Mrs. DAVIS OF VIRGINIA. Thank you, Mr. Chairman, and thank you, Mr. Walker and Ms. Dorn, for being here.

Mr. Walker, you said it several times, something that I firmly believe in, and that's the process is the critical, important part of this, I think. In my opinion, all players need to be brought to the table so that everybody is treated fairly.

You spoke about the—I think it was the Hoover Commission that President Truman used in his last reorganization. Would you envision that's something that the administration would do in this case? And that may be a question for you, Ms. Dorn.

Mr. WALKER. Well, obviously, I can't speak for the administration since I am not part of the administration. I just think that it would be prudent for both this President and future Presidents, as well as the Congress, to learn from the lessons of the past. In the past, two key differences—two key factors have made the difference between success and failure. One is the nature and scope of the proposal, and second the process and players who are involved in making that proposal to the Congress. The first Hoover Commission was by far the most successful. I personally believe there's a lot that needs to be done here, some of which is low-hanging fruit but some of which is very substantive and very comprehensive, and I think it is probably going to take a commission like that in order to get that part done.

Ms. DORN. I think I would make the point that if this authority was in place to get proposals considered and/or some sort of expe-

dited consideration in the Congress, that the question of what to do has been studied by I think every administration since the Nixon administration. I know that the earlier Bush administration had a task force headed up by the Vice President to look at potential competitive—the Competitiveness Council looked at potential ways to make the Government more competitive. The Clinton administration—again, Vice President Gore looked at ways to make the Government more efficient. We have, I think, stacks of bipartisan proposals that exist on how to make the Government more efficient. The difficulty is how to get that done.

We have not been able to have a delivery mechanism to take a lot of good ideas that have been generated over the last 5, 10, 15 years and actually get those in place.

It may be desirable to have another look. My only concern is that you can have stacks of studies that, if you have no mechanism to turn those into action, it turns and sometimes is not a good use of time.

So I think we are open to suggestions in that regard, but we would also probably look to this committee and other committees of the Congress that in their oversight have made lots of good suggestions about how Government could perform better and efficiencies that could be achieved.

Mrs. DAVIS OF VIRGINIA. I agree with my chairman that the process we have right now, when you have to go through 30 committees you can't get anything changed because everybody has their own idea. But even in saying that I would want to—as the chairman said, I have a lot of Federal workers in my District and they're good, good people and they do a good job, and most of the ones that I talk to, they want an efficient Government. They want a good reputation. They don't want to be seen as the cause of our inefficiencies, and I think they would be willing to and would want a place at the table to be able to sit down with you and possibly give you some suggestions of what should be done, and I would hope that we would take all that into consideration. But I agree, we do need to change the process; otherwise, nothing will happen.

Mr. Chairman, I have to apologize. I have a markup in another committee, so I need to go. I would like to respectfully ask that I be able to submit questions for the record for the second panel.

Chairman TOM DAVIS. That would be fine. Thank you very much.

Mrs. DAVIS OF VIRGINIA. Thank you, Mr. Chairman.

[The information referred to follows:]

Government Reform Committee
April 3, 2003

*“Toward a Logical Governing Structure: Restoring Executive
Reorganization Authority”*

**Per the request of Subcommittee on Civil Service and Agency Organization
Chairwoman Jo Ann Davis, please submit the following questions to the witnesses
and their responses for inclusion into the record:**

Questions for OMB

- I understand that the Office of Management and Budget has a two-year old initiative underway to map out all agencies’ business and program activities in an effort to find and eliminate duplicative programs and information technology systems – the so-called Business Reference Model. Is this model complete and how comprehensive is it? Does it encompass all of the agencies throughout the entire federal government? Can you please provide the Members of this Committee with a copy of the Model?
- What sources are you using to help you find and catalog this information? Are you using, for example, budget documents, Inspector General reports, GAO reports, etc.? And, can Congress facilitate this process through legislation or GAO reviews?
- What is the Administration’s timetable for reorganization of government? If we were to see fast track authority passed and signed into law this year, when could we expect to see an Administration proposal, or would you first establish an impartial commission to make recommendations?
- The expired provisions of Title 5 contained very specific provisions. Is it the President’s proposal to reinstate the same provisions or are there any changes that need to be made to make the provision even more effective?

Questions for the Unions

- According to the Senate Government Affairs Committee’s 2001 report, Government At the Brink, there are 130 programs in 19 agencies that serve the disabled, and eight different federal agencies operate 50 different programs to assist the homeless. And those are just two examples. With all the duplication and overlap in government that everyone on both the right and left decries, isn’t fast-track authority the best way of getting true reform? After all, if the proposals do not meet with approval with a majority of Congress, the initiative will fail.

- Sometimes federal employees unfairly bear the brunt of criticism for government waste, when it is in fact the structural overlap and duplication in the programs they are tasked to implement that are the causes of the problem. Why wouldn't employee organizations welcome the opportunity to clean up government, and remove the duplication and overlap that often gives government work a bad name?



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEPUTY DIRECTOR
FOR MANAGEMENT

July 14, 2003

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HOUSE COMMITTEE ON
GOVERNMENT REFORM

The Honorable Tom Davis
Chairman
Committee on Government Reform
United States House of Representatives
Washington, DC 20515

Dear Chairman Davis:

Attached are answers to questions for the record that were submitted following then-Deputy Director Nancy Dorn's April 3, 2003 testimony. Because Deputy Director Dorn left the Office of Management and Budget before we received the questions, I have answered them in her absence. Please let me know if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Clay Johnson III".

Clay Johnson III
Deputy Director for Management

I understand that the Office of Management and Budget has a two-year old initiative underway to map out all agencies' business and program activities in an effort to find and eliminate duplicative programs and information technology systems- the so-called Business Reference Model. Is this model complete and how comprehensive is it? Does it encompass all of the agencies throughout the entire federal government? Can you please provide the Members of this Committee with a copy of the Model?

OMB initiated the development of the Federal Enterprise Architecture in February, 2002. The Business Reference Model is the foundation layer of the Federal Enterprise Architecture and inventories all of the work performed by Federal agencies, organized functionally by their lines of business. Version 2 of the Business Reference Model, released on June 12, 2003, contains descriptions of all of the lines of business performed by civilian agencies, but contains only high level lines of business for the Defense and National Security or Intelligence Operations functions. OMB is working directly with the Department of Defense and the Intelligence Community to complete descriptions of their other functions, at which time the Business Reference Model will be revised. The Business Reference Model provides a continually evolving cross-agency look at the functions performed by government agencies. It supports the identification of redundant information technology investments as well as gaps where technology solutions can provide substantial performance improvement. A copy of Version 2 of the Business Reference Model accompanies this document. Members of the Committee may also view a much more detailed presentation of the Federal Enterprise Architecture and the Business Reference Model on a website, FEAPMO.gov.

What sources are you using to help you find and catalog this information? Are you using, for example, budget documents, Inspector General reports, GAO reports, etc.? And, can Congress facilitate this process through legislation or GAO reviews?

We used two primary sources to revise the Business Reference Model. The first and most important was the wealth of comments on *Version 1.0* of the Business Reference Model submitted to the Federal Enterprise Architecture Project Management Office by Federal agencies. The second major collection of changes to the Business Reference Model resulted from efforts to align the Model with several other government-wide management frameworks and improvement initiatives, including: (1) Budget Function Classifications, (2) the President's Budget and Performance Integration Initiative and the Federal Enterprise Architecture Performance Reference Model, and (3) Cross-agency efforts to improve Federal financial management and financial management systems.

We have attempted to make the Business Reference Model as comprehensive as possible and would be happy to receive Congress' comments on the Business Reference Model, as well as suggestions on how to improve it.

What is the Administration's timetable for reorganization of government? If we were to see fast track authority passed and signed into law this year, when could we expect to see an Administration proposal, or would you first establish an impartial commission to make recommendations?

The Administration does not have a timetable for reorganizing the government. Where there is an imperative for a reorganization, the Administration will propose one. In the meantime, the Administration has proposed reauthorization of the Reorganization Act. If enacted, the Administration would then consider what steps to take to study and propose a reorganization. The Administration would draw on all expertise available in designing a proposal to reorganize any segment of the federal government.

The expired provisions of Title 5 contained very specific provisions. Is it the President's proposal to reinstate the same provisions or are there any changes that need to be made to make the provision even more effective?

The Administration would prefer that the Reorganization Act not limit the scope of the reorganization the Administration can propose.



May 1, 2003

The Honorable Tom Davis
Chairman
Government Reform Committee
U. S. House of Representatives
Washington, D. C. 20515

Dear Chairman Davis:

Thank you very much for giving NTEU the opportunity to appear before your Committee recently on the subject of executive reorganization authority.

Attached are my responses to the questions you submitted following that hearing. I apologize for the delay in forwarding these answers to you. If I can provide any further information, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Colleen M. Kelley". The signature is fluid and cursive, with a large, stylized "K" at the end.

Colleen M. Kelley
National President

Attachment

Additional Questions from April 3, 2003 Hearing on Executive Reorganization Authority

1) According to the Senate Governmental Affairs Committee's 2001 report, Government At the Brink, there are 130 programs in 19 agencies that serve the disabled, and eight different federal agencies operate 50 different programs to assist the homeless. And those are just two examples. With all the duplication and overlap in government that everyone on both the right and left decries, isn't fast-track authority the best way of getting true reform? After all, if the proposals do not meet with the approval of a majority of Congress, the initiative will fail.

NTEU disagrees that fast-track authority represents the best way of accomplishing "true" government reform. Requiring both the House and Senate to either approve or disapprove a massive reorganization plan submitted by the Executive Branch risks not only making Congress irrelevant, but also the loss of important protections and considerations. Congress' role is to legislate – with input from interested parties, expert advice and healthy debate, not to rubber stamp Administration proposals. Government reorganizations can be politically charged, as evidenced by the creation of the Department of Homeland Security and establishment of the Transportation Security Administration. Would we really be better off if the debate over whether federal or contract employees would better serve the American public in our Nation's airports had never occurred?

Moreover, if such fast track authority is appropriate for executive reorganization, why not adopt the President's annual budget proposal, his recommended discretionary appropriations levels and his proposed tax cuts using the same fast track mechanism? They are no less difficult or time consuming to enact than agency reorganization.

2) Sometimes federal employees unfairly bear the brunt of criticism for government waste, when it is in fact the structural overlap and duplication in the programs they are tasked to implement that are the causes of the problem. Why wouldn't employee organizations welcome the opportunity to clean up government, and remove the duplication and overlap that often gives government work a bad name?

NTEU believes that a great deal of the criticism of government employees and the programs they oversee stems from Congress' failure to provide adequate funds to agencies to administer their programs or to train employees to perform their jobs. All the reorganizations in the world won't improve agency operations if those agencies don't have adequate funds and personnel to administer their programs. We welcome the opportunity to work with the Chairman to address these issues through the proper legislative channels.



AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

80 F Street, N.W., Washington, DC 20001 • (202) 737-8700
FAX (202) 639-6490 • <http://www.afge.org>

Bobby L. Harnage
National President

Jim Davis
National Secretary-Treasurer

Andrea E. Brooks
Director, Women's/
Fair Practices Department



April 22, 2003

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The Honorable Tom Davis
Chair, House Government Reform Committee
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Davis:

Thank you for the opportunity to provide additional remarks about the hearing recently held by the House Government Reform Committee on whether to reauthorize the executive branch's downsizing authority.

1. We need to be careful about taking as gospel the factoids and generalizations included in former Senator Fred Thompson's very partisan report Government At the Brink. In any event, the best way to achieve "true reform" is by making a case for bureaucratic duplication and overlap; and the best way to make that case is for the leadership of the House Government Reform Committee, in concert with the relevant authorizers and appropriators, to use hearings to draw attention to their concern, and then craft legislation to address that concern. If there is truly a strong case to be made that there is in fact duplication and overlap, it would be difficult to seriously contend that legislation to correct that problem would not be speedily passed, particularly given that the House of Representatives, the Senate, and the White House are all controlled by a single political party. Moreover, by using the traditional legislative process, including the consideration of measures under suspension, the Congress could benefit from all of the expertise outside of the executive branch in correcting this problem. As you know, the lapsed reorganization authority prohibits the amendment of the executive branch's proposals submitted pursuant to the reorganization authority. Using the traditional legislative process, instead of contracting out the formulation and the consideration of reorganization proposals to the executive branch, ensures more democratic consideration as well as the active involvement of all affected stakeholders, as opposed to just those represented by the few managers in the executive branch who prepare a reorganization proposal.

To Do For All That Which None Can Do For Oneself

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2. Whether or not one agrees with the merits of their policies, it is clear that Bush Administration officials approach issues affecting the federal employee workforce with one or more of three objectives in mind: privatizing the jobs of federal employees, stripping them of their civil service protections against politics, discrimination, and favoritism, and eliminating their collective bargaining rights. Given that pattern, it would be sheer folly to short-circuit the traditional legislative process in order to give the Bush Administration even greater authority to reorganize or downsize, particularly given that such authority is not actually needed.

Thank you again for soliciting our views.

Sincerely,



Mark Roth
General Counsel

c.c.: The Honorable Jo Ann Davis,
Civil Service Subcommittee Chair

Chairman TOM DAVIS. Mr. Van Hollen.

Mr. VAN HOLLEN. Thank you, Mr. Chairman, and thank you all for your testimony.

Let me just say at the outset—and the chairman alluded to this issue—there's obviously a lot of unease among Federal employees with respect to handing over this kind of authority without the kind of oversight that we have today setting out this kind of fast track system, and it is aggravated in part, I think, because I think everyone would like to see the Government made more efficient, that they would like us to organize the Government in a way that could deliver the services in the best way possible. So the question is not up-sizing or down-sizing, it's whether we want to get to the right size and with the right functions.

There is concern, as the chairman mentioned, that this kind of authority could lead to arbitrary downsizing, and that kind of fear is always exacerbated when you see the type of budget resolution that was passed, which asked this committee, the Government Reform Committee, to make \$38 billion cuts over the next 10 years, and the chairman of this committee had a major victory to protect the rights of Federal employees and took off the table, at least in part, retirement benefits.

But if we as a committee want to get that kind of savings over 10 years, it could mean a drive to downsize just for the sake of downsizing, not for the sake of organizing the Government in the most efficient way. So I just want to put that out there as an understandable concern of lots of people, when you look at the budget resolution passed, the charge given to this committee in the context of this proposal to allow a fast track process.

I want to get a hand on the scope of the problem, because it is true when reorganization legislation comes down here it gets sent to lots of committees, but I'm interested in, for example, this administration. How many proposals for reorganization do you have currently pending before the Congress and what is the status?

Ms. DORN. Congressman, I probably would have to provide the exact number for the record because I don't have it on the top of my head, but in preparation for this hearing I went back through the last two budgets and looked at kind of the highlights of what we had recommended and what had happened to a number of those proposals. There's a little chart in last year's budget that talks about, again, some pretty rational program changes like, for example, in Homeland Security we talked about moving State and local terrorism programs from Justice to FEMA. That actually occurred in the bigger transition. But there were about 10 others that ranged from moving C grant programs from Commerce to the National Science Foundation; toxic substances, hydrology programs from Interior to the National Science Foundation; basically moving some of the science programs from the different agencies to NSF, where I think most people would agree there's a lot of expertise.

You know what happened to those proposals? None except for the Homeland Security reorganizations, which happened in the larger context, actually occurred, because when it came down to it there was some, I think, very limited resistance, but in the end fairly compelling.

There weren't any—there were no personnel implications to those, there were no giant over-reaching policy concerns with those, but they just don't happen.

I think it makes—doing these sort of one at a time in very small slices requires a lot of fortitude and a lot of perseverance. Frankly, Federal managers have a lot to do. If they think that there's little to no chance that it's going to be successful, they just don't have the time to spend on it.

Mr. VAN HOLLEN. Thank you.

Ms. DORN. I can provide the—

Mr. VAN HOLLEN. That would be helpful to me as a new Member, just to get a handle. I mean, the problem is stated generally in a lot of the comments. It would be nice to have some specifics.

Mr. WALKER, do you have any comments?

Mr. WALKER. Just to follow up very quickly. I think these are several examples of exactly how fast track authority can be helpful. When you have situations where you are identifying certain functions or certain activities that you're not proposing to eliminate, you're proposing to transfer them and to put them in an area where they are more mainstream with regard to mission and where you can integrate activities rather than coordinate activities, I think those are examples of things that, if you had fast track authority, it is much more likely that these proposals would come forward and that some of them would ultimately be enacted into law. And that would be one that I would say clearly makes sense.

When you're talking about eliminating things, then you may want to consider still some fast track authority, but maybe different than what the authority would be where it is primarily for efficiency and synergy reasons.

Mr. VAN HOLLEN. So you are suggesting, just so I understand, suggesting maybe different standards applied to the kind of review that different proposals get, depending on whether it is just for transferring function as opposed to eliminating function?

Mr. WALKER. Exactly. You look at the value, look at the nature of the proposal, the relative value and risk, and how does that affect the fast track authority, the role that Congress plays, and what role, if any, a commission might play in the process.

Mr. VAN HOLLEN. OK. Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you very much.

Mr. Duncan.

Mr. DUNCAN. Thank you very much, Mr. Chairman.

Have either of you read the 1983 Supreme Court decision that ruled this Presidential reorganization authority unconstitutional? I'm just wondering, was that a very narrowly drawn decision, or did they express—what did they express as the problems or the objections at that time?

Mr. WALKER. I have not read it. I have been briefed on it by my general counsel. My understanding, the Chadha decision basically stated that under the Constitution that both houses of Congress needed to affirmatively act in a positive manner in order to affirm any proposed action in this regard, rather than previously it's my understanding the way that it worked was it was presumptive unless one house of Congress basically vetoed it. And the Supreme

Court said no, there needs to be an affirmative step by both houses of Congress under the Constitution. That's my understanding.

Ms. DORN. That's consistent with my understanding. I don't think that it pertained particularly to this reorganization authority, but broadly to a one-house veto.

Mr. DUNCAN. This sounds like it might be a pretty good thing to do, but I'm wondering how either of you would respond to somebody who might say that there have been concerns for many years that the executive branch has been acquiring too much power at the expense of the Congress, and now Congress has given the President fast track trade authority, and now we're talking about giving fast track reorganizational authority, and that we might want to do this to an administration that we like, but we might not want to give this authority to the administration that we didn't like, but you're doing it anyway. I mean, the administration changes sometimes. So how would you respond to somebody who expressed that concern to you?

Ms. DORN. I think the Volcker Commission, which is composed of people of both parties, all who served at the highest levels of both parties—served at the highest levels of the executive branch when both parties were in control, supported this kind of authority for one very good reason, and that is that the state of the Federal Government is becoming a—if not a crisis, it is becoming a broadly recognized concern that if the Federal Government cannot figure out a way to cut through the stasis that has built up over time, that we are going to have a Federal Government that the people have lost confidence in, that is enormously expensive, and is not delivering the products and the services that the American people expect. I think it is consistent with what was recognized by the Congress in the area of trade—that without fast track authority on the trade side, that the United States was at a significant disadvantage to compete in the world.

So it is not that—in my view, and I have served in both the legislative and the executive branches—I don't think that this is a continuing series of assaults on the powers of the legislative branch, but a recognition of the priorities that our country has to confront in a kind of a priority here.

Mr. DUNCAN. Yes. Mr. Walker.

Mr. WALKER. Well, I work for the Congress so I am an Article I person, but I do believe that every President needs some type of authority like this, and that there is a compelling need, for the reasons that I articulated in my opening statement, that the time is right to move some reauthorization authority.

I think in the final analysis you have to get comfortable and the Congress has to get comfortable to try to achieve the balance that Chairman Davis talked about—reasonable flexibility with adequate safeguards. And you have to be comfortable that when whatever you pass as far as this authority, that you would feel comfortable with it no matter who the President of the United States is and no matter what party they represent. You have to look at it that way. It shouldn't be any different because otherwise I think you might second guess it down the road.

But the other thing is it has to be reauthorized. At least historically that has been the case. That's another way that you can do

it to manage risk. You can set it up, since you give this authority and provide for periodic reauthorization, which was the case from 1932 to 1984.

Mr. DUNCAN. Well, I can tell you I think most people think that the Federal Government has gotten so big and bureaucratic that it is just almost out of control and something needs to be done, but the Government keeps getting bigger almost no matter who is in power. So I'm a little bit skeptical as to whether this is going to do what we need done, but at least it seems to be better than doing nothing, so thank you very much.

Chairman TOM DAVIS. Thank you very much.

Mr. Tierney.

Mr. TIERNEY. Thank you, Mr. Chairman.

I have to join Mr. Duncan in my skepticism. I tell you, I have difficulty with the concept that just after the budget proposes such huge cuts and throws it over to this committee for \$1 billion in next year and \$40 billion over 10 years, all of a sudden everybody is out here proposing now that we have this reorganization fast track. And I can understand people's concern on that, and I'm not sure that your testimonies have allayed that fear at all.

I'm also concerned with the fact that this Congress has a responsibility to do the things that you're talking about having done. I suspect that we need just find the will and proceed with business.

What do you say about the fact that during the last administration the National Performance Review with some duplication or whatever is purported to have eliminated over 250 programs and agencies, and that was without the existence of any kind of a fast track?

Ms. DORN. Well, Congressman, I would say that both Republican and Democratic administrations wrestle with this all the time, and if you look at what the Clinton administration did in 8 years, they may well have taken this on at various levels and wrestled some of it to the ground. They didn't have the authority. You can make progress, sometimes slow, sometimes arduous, but you can make progress through the regular legislative process.

Mr. TIERNEY. Well, isn't that what the regular legislative process is—a deliberative process where we bring in all of the key individuals and give them an opportunity to be heard? I think what bothers me is that this seems to be a step outside of that. I mean, this is say ingredients we don't want to make sure that all the key players are heard, we don't want to make sure that 435 people in the House and 100 in the Senate that represent all these constituencies actually have a voice, and we're going to fast track this and throw something on the table and have it voted on in a certain amount of time without any amendments, and we're out of here. I mean, it seems to me you're working directly opposed to the interest of people in this country who expect that there is going to be a concerted review of this and people are going to have to make some hard decisions and be held accountable for them.

I'm particularly stunned by the fact that here you are with one party in the majority of the House, one party in the majority of the Senate, same party in the White House, and now is when you choose to say that we can't get anything done?

Ms. DORN. Well, Congressman—

Mr. TIERNEY. I mean, this seems—if you're going to get something done, get it done. Go through the regular legislative process and see if the weight of your arguments has enough merit to pass.

I suspect what it is is in theory getting rid of billions of dollars so you can give tax breaks to people is one really good idea to some people, but when it starts identifying where that money is coming from, our conviction and our will may fade away a little bit. And that's just one person's review of this, but it seems somewhat obvious from this perspective.

Ms. DORN. For the record, the Bush administration did propose that this authority be extended not 2 months ago in February when the 2004 budget was proposed, but a year ago last February.

Mr. TIERNEY. When the 2001 cuts were proposed so——

Ms. DORN. Well, I think——

Mr. TIERNEY [continuing]. Cuts.

Ms. DORN [continuing]. The point is that the Bush administration has had a commitment to management reform that I think is serious and that is manifest both in this and——

Mr. TIERNEY. So if that's the case, my question to you would be then, with a majority in the House and majority in the Senate and the White House, if you think your ideas are so good why don't you present them and let them go through the regular legislative process and we'll see if they carry the weight of day.

Ms. DORN. And we have, and we will continue to propose changes through the regular process until the process is changed. The only point that I would make is that it is difficult, it is sometimes not productive, and, as I said——

Mr. TIERNEY. Well, let me interrupt you only because we have a short time. I don't mean to be rude. But "not productive" I think as you're defining it is you don't always get your way. That doesn't mean it's not productive. It means that you made a proposal, it went through the regular legislative process, and it didn't win the argument. I mean, I think that when that happens the idea to say, "Well, we're going to change the system so we can jam things through," isn't necessarily the best way for everybody to be looking at this thing.

You have all the majorities. You have the White House. You think you have great ideas. Float them, you know. But why take away the prerogative of this body, whose responsibility it is to look at these things, to deliberate, and hear testimony from all the interested parties who have a stake in this, and then make some decisions? I think the American people are smart enough, if this body doesn't have the will to proceed the way they want it to, they'll take whatever action they think is appropriate. But I think the only message I have here is that it seems to me that this is an end run. If we can't get things done one way, we're going to try to jam it through another way by changing the process, and an invitation to some Members of Congress to avoid the responsibility of making difficult decisions.

I yield back the balance of my time.

Chairman TOM DAVIS. First of all, let me just say I like the point when you said one party controls the Presidency and the House. I'd like you to keep saying that. It has been 50 years since we've had that opportunity.

The other thing is that some of the fights aren't partisan fights, they are jurisdictional fights. That's what makes any of this really difficult to organize that we're trying to get to. But I think the comments from the gentleman, I think we're going to hear a lot of skepticism in terms of what the motivation is back and forth, and these are real issues that we are going to have to address as we move this legislation forward. So I appreciate your comments. And it's a bigger issue than just a partisan issue, but——

Mr. TIERNEY. Well, it goes beyond the partisan issue, Mr. Chairman, and is more important than the partisan issue. The only reason I raise the partisan issue is if you've got the majorities, then put your proposals out there and let them fly. This is a uniquely extraordinarily time for you to be making this proposal when you have all the chips. But the other part of it I think is one of the prerogatives of this house.

Chairman TOM DAVIS. Yes.

Mr. TIERNEY. You know, this is our responsibility. Why we are trying to find some way to pass the buck just escapes me.

Chairman TOM DAVIS. Because I think we recognize our own limitations. But I hear you.

Mr. TIERNEY. Well, shame on us.

Mr. WALKER. Mr. Chairman, if I can, as you know, Congressman, the GAO has a reputation of being professional, objective, and non-partisan. I can tell you, in my opinion as Comptroller General of the United States, irrespective of who the President is, whether a Democrat, a Republican, and no matter what their name is, there is conceptual merit to having some type of expedited reorganization authority, but I think——

Mr. TIERNEY. But even you in your testimony made it very clear that you think that there has to be some provision made for people——

Mr. WALKER. Absolutely. Absolutely. And let me state that. I think you need to look at the value and risk, the nature of the proposal. You need to have adequate safeguards. And there are ways I think that this could be accomplished where you have a reasonable balance of interest between the executive branch and the legislative branch, but I think some type of expedited authority is clearly called for, irrespective of who the President of the United States is and irrespective of who controls the Senate and House of Representatives.

Chairman TOM DAVIS. Thank you. And, of course, you need 60 votes in the Senate, so nobody controls—no party controls the Senate. One party presides over the Senate. There is a whole different issue.

Mrs. Miller, thank you for bearing with us. You are recognized for 5 minutes.

Mrs. MILLER. Thank you, Mr. Chairman. I've enjoyed the testimony certainly and the conversation from my colleagues, as well. And I would agree that this is certainly a tool that the President needs. In fact, as a new Member of Congress, quite frankly, learning a little bit more about the Federal Government, I have to say I'm completely astounded that the President does not have the same types of management tools that every Governor in the Nation, whether they are a Democrat or a Republican, and most coun-

ty executives have, as well. Certainly, there are two Members on this panel, including our chairman, who have had those kinds of experiences previously in their former lives where they have had those kind of management tools. Nor do I believe the concept of seamless government, of customer service, of delivering a cost-effective, efficient government is a partisan concept, and it certainly should not be a novel concept for the Federal Government, as well. So I do strongly support this legislation. I think the President, whoever the President is, is in a position of appointing Cabinet officers, members, and then not again having the resources or the tools to do what needs to be done. I think the citizens certainly are looking to the Federal Government to deliver better services.

The current structure seems to me to certainly stifle creativity amongst some excellent Federal employees who, as one of my colleagues mentioned a little bit earlier, would like to have some input. I mean, these are people who are on the front line every single day and just are in the trenches, so to speak, certainly would have some excellent recommendations, I'm sure.

And perhaps my question has already been answered. Ms. Dorn, you were mentioning a little bit previously that you have stacks and stacks of previous recommendations about what could happen here, but could you perhaps give me a specific example of where this administration may go first if this kind of legislation were to be delivered?

Ms. DORN. We've made a number of proposals in the regular submission of our budgets in 2002, 2003, and 2004 that speak to need for reorganization of certain elements of the Government. They range from fairly small things. Governor Thompson over at HHS has had an ongoing effort to try to streamline various entities within the HHS empire. They have 65,000 employees, and when he arrived they had multiple personnel shops, multiple public affairs shops, all of whom were sort of operating independently and without coordination or any kind of efficiency. He has made an effort to try—he started with the personnel shops and has rationalized those. He's working his way through the public affairs shops. But it is an attempt to again make people's work more valuable, make people's time more useful.

There are other examples that are great in the area of Homeland Security where we have gone through the traditional process at a very high level, great amount of consultation with the Congress to get the Department of Homeland Security set up. And I would point out that the creation of the Department of Homeland Security is not the last word. The Congress did do what the Volcker Commission suggested. They rationalized their committee structure. The oversight for DHHS is still going to be, I suspect, fullsome. Nobody expects to reorganize Government and then have Congress give up its oversight authority and its power over the purse and all the other tools that the Constitution and 200 years of statutory law give them. But we have a number of proposals which I think we're very aggressively pursuing.

It is a question of how much you really can expect to accomplish, how much time you invest in this area of management of the Federal Government, knowing what the cost is and what the chances are that you might succeed.

Mrs. MILLER. Thank you, and I appreciate your example of Secretary previously Governor Thompson. He has certainly been a role model nationally and a leading edge in so many different kinds of things—welfare to work, economic development, etc. And then for a Governor, who is used to having Executive order privileges, to be able to reorganize and delivered excellent services in the State of Wisconsin to come to the Federal Government and be so hamstrung has certainly got to be very frustrating for him and for his entire agency, as well.

Thank you so much.

Ms. DORN. Yes.

Chairman TOM DAVIS. Thank you very much.

Let me get Mr. Shays.

Mr. SHAYS. Since this is my first pass, I want to congratulate the chairman for doing what this committee clearly needs to be doing, and that is to deal with the management challenges that face any President, any chief executive, Republican or Democrat.

I plead ignorance to the fact that I did not know that we have not given the President the reauthorization since 1984.

Let me ask you, Mr. Walker, what is the significance of this in terms of dollars. What could a President do with this kind of power that would impact dollars?

Mr. WALKER. Well, there's no question that, depending upon the nature of what the proposals would be, that there could be significant economy, efficiency and effectiveness, improvements achieved as a result of making reorganizations happen that otherwise might not happen.

To put a number on it is virtually impossible because I have no idea exactly what the administration is going to propose and I also don't know what the Congress is going to choose to pass or to authorize in that regard, but it is considerable.

Mr. SHAYS. It is considerable. The GAO has—I could have big stacks of reports at GAO that have recommended changes to Government and so on that would be accomplished by simply giving the President this power?

Mr. WALKER. There is no question that there would be a much greater likelihood that they would be accomplished if some type of expedited consideration was given.

Mr. SHAYS. Ms. Dorn, do you care to respond?

Ms. DORN. Well, Congressman, before you came in I think that I—in looking back over the last 2 years of the Bush administration, this administration and this President, in particular, has been very interested in the management side of the Government, and we've spent a lot of time putting forward a management agenda and pushing through a number of performance and budget integration initiatives. They haven't been aimed necessarily at either reducing the numbers of Federal employees or in harvesting dollars out of it. Obviously, there are some things that could be achieved in that regard. That hasn't been the primary motivation.

The primary motivation is actually to get more value out of the people and the agencies of Government than we're getting right now.

Mr. SHAYS. And I'm trying to get this report that I remember reading, but there was a comparison between the Federal Govern-

ment and the private sector, and the Federal Government—there were 11 Government employees that had a say in a decision whereas in the private sector—who could make a decision. They all had to sign off, and they all had to sign off in order for it to happen, and in the private sector there were three.

The point that was being made in the report is that we need to empower Federal employees to be able to make decisions, to be able to do the same that we would do in the private sector, and tremendous efficiencies would happen.

The argument in this report was that workers' satisfaction would climb significantly because they would have a role in the process of making decisions.

Mr. Walker.

Mr. WALKER. Mr. Chairman, effectuating a reorganization does not in and of itself mean that there is going to be a loss of jobs. There could be some circumstances where that would occur, but let me just mention, as I mentioned in my testimony, the GAO has already done this. GAO created a strategic plan. We realigned our organization based upon that strategic plan. We have not conducted any RIFs. We've made tremendous progress on succession planning and revitalizing our work force, and our results have almost doubled in 4 years.

Mr. SHAYS. So your output increased, your employees have greater satisfaction because they are involved in something more productive, and we got a lot more bang for the dollar that we spent?

Mr. WALKER. Right, but it is more than just the organization. It is empowering employees and doing a bunch of other things. I mean, all too frequently people see Federal workers as part of the problem. They are part of the solution here. Federal workers are part of the solution as to how to make us more economical, efficient, and effective, and we need to treat them that way.

Mr. SHAYS. And there's nothing that says in reorganization that Federal employees wouldn't be part of the process of how you reorganize in any decision made by a President.

Mr. WALKER. It would be prudent to somehow get their input.

Mr. SHAYS. Thank you very much, Mr. Chairman.

Chairman TOM DAVIS. Yes. Mr. Ruppertsberger.

Mr. RUPPERSBERGER. First, thank you, Mr. Chairman.

I'm listening to the testimony and we're attempting to try to get efficiencies, and this is important that we move forward with this, and I think we should do it, as I said before, right away.

I think what a lot of the problems are—and if we could resolve this issue—is the issue of the perception of our Federal employees. You know, we have a Republican President and both houses control, and Congressman Tierney raised that issue. I, as a former county executive, I went through this reorganization, and at first I didn't have the confidence of our county employees. Eventually, after working with our administration, after seeing that efficiencies in the end were in the best interest of the employees, that eventually the programs that were put in place, like a gain-sharing program, a group incentive based on performance, and seeing in the end that efficiencies bring more money in the end to give back to the employees, then the confidence level started to occur.

I think most Government employees probably at this point, when they hear this type of exercise and what we are looking at, think that it is a downsizing issue. That was something I had to overcome. It wasn't about downsizing at all. In fact, really there was no downsizing other than through attrition. There is a lot of things that happen in all governments, a lot of duplication of effort, a lot of wasted money, a lot of wasted performance, and that's where we're trying to get to.

But I asked the question, and I think it is going to have to be answered in more specificity. We need to make sure that Congress does retain its check and balance. That would be part of a process. It shouldn't be interfering with what is happening. Whether you're a Democrat or Republican, the President is so-called the "president of the corporation," and I see Congress as the board of directors, but we are the check and balance and we must have input, and that's why we will be there to look after the employees' issues, try to make sure that we are holding people accountable for performance, including the President.

So I think, Mr. Chairman, that credibility started with you when you were told that you had to downsize or you had to cut a certain amount of money and you did not, so I think if we look at this from a bipartisan point of view, our employees have to be a part of the process, and if we can let it be known—again, leadership has to do this—that it's not a downsizing exercise, it is an efficiency exercise which in the end will benefit all employees and all citizens of this country.

Mr. WALKER. I think it is important to note that the Congress has recently provided the executive branch with significant authorities dealing with voluntary early outs and voluntary buyouts, which would be an incredibly valuable tool that could be used by the executive branch in order to effectuate and implement any related reorganizations that Congress might approve. We've used those authorities. Congress, fortunately, gave us those authorities in the year 2000. We were kind of the beta, the test, if you will, for this concept, and it helped us tremendously to implement our strategic plan, to realign without any RIFs.

Mr. RUPPERSBERGER. That's one other point, and I'll stop. It's also the issue of privatization, too. And I have found that if you give the employees the resources to do the job, they will be able to compete with the outside sector if you give them the resources and the leadership where they need to move, so that's another thing that we must look at in this whole process is the issue of outsourcing.

Chairman TOM DAVIS. Thank you, Mr. Ruppertsberger. I think you are going to be a great member of the committee. I appreciate your interest and your questions. I think he has hit kind of the nub of the matter as we deal with this.

Any other questions for this panel?

[No response.]

Chairman TOM DAVIS. If not, I will excuse you.

Nancy, congratulations on your new assignment. I understand you are leaving OMB. We've enjoyed working with you.

Mr. Walker, thank you, as always, for being up here. We look forward to your continued input on this and a number of other issues.

Ms. DORN. Thank you.

Chairman TOM DAVIS. We have a couple of votes on the House floor. I'm going to basically recess the meeting right now. We'll come back right after those votes and go with our next panel, but I suspect it will be at least 15 minutes, so if you want to take a break and wander around, get back in about 15 minutes. Thank you very much.

[Recess.]

Chairman TOM DAVIS. Our second panel is here. We have Mr. Dwight Ink, president emeritus of the Institute of Public Administration; Dr. Paul Light, director of the Center for Public Service at Brookings; Colleen Kelley, president of the National Treasury Employees Union; and Mark Roth, general counsel of the American Federation of Government Employees.

As you know, it is the policy of this committee to swear all witnesses, if you would just rise with me and raise your right hands.

[Witnesses sworn.]

Chairman TOM DAVIS. Thank you very much. We'll proceed. Mr. Ink, we'll start with you and just work straight down the line. Thank you for being with us.

STATEMENTS OF DWIGHT INK, PRESIDENT EMERITUS, INSTITUTE OF PUBLIC ADMINISTRATION; PAUL C. LIGHT, DIRECTOR, CENTER FOR PUBLIC SERVICE, THE BROOKINGS INSTITUTION; COLLEEN M. KELLEY, PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION; AND MARK D. ROTH, GENERAL COUNSEL, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. INK. Thank you, Mr. Chairman. I appreciate the opportunity to testify at these hearings on Government reorganization. I am pleased that the management agenda of President Bush does include a request that the Congress restore Presidential authority for submitting reorganization plans, a step that I think can be of help in managing the Federal Government.

I am a fellow of the National Academy of Public Administration, a member of its standing panel of Executive Organization Management, but my testimony today reflects my personal views and not necessarily those of the Academy. These comments grow out of management experience in a number of Federal agencies, including my role as Assistant Director for executive management in both VOB and OMB, where I had responsibility for Presidential reorganization plans. In that role I and my staff handled seven plans, each of which resulted in significant reorganizations, including the establishment of OMB and EPA.

I concur fully with your statement about the amount of overlapping and duplicative programs. Not only is this wasteful, but it creates problems for the people and organizations served by these programs. Splintering of functions also blurs accountability because responsibilities are diffused among several different departments, none of which can be held accountable for more than a portion of a given function.

Accountability is further blurred because of structural fragmentation resulting and issues gravitating to the White House that do not warrant Presidential attention. There they either clutter the

President's desk and steal time that should be devoted to more critical issues or they are handled by White House staff. These staff members are usually very bright people, but they seldom have the needed in-depth background on all these issues or ready access to the needed expertise available in the departments. Further, they are not as accountable to the public or to the Congress as department officials. Restoration of Presidential reorganization authority if properly used could be a useful tool in reducing the problem of structural fragmentation.

My experience with these plans dates back to a period when the process was reasonably straightforward. Since then, of course, the Chadha Supreme Court case has prevented use of the earlier method by which reorganization plans would become effective unless disapproved by Congress, but I do not believe the scope of what can be accomplished under reorganization plan authority was reduced by that decision.

At the same time, the authority did accumulate barnacles, and I would agree that it is best to simplify the law and the process of reauthorization.

I support the concept of restoring reorganization plan authority if it provides assurance that a vote will be taken after a specified period of time and if the authority limits or precludes amendments.

I would add, however, that passing the legislation will not necessarily accomplish anything unless other steps are also taken.

First, within the Executive Office of the President there is a need to restore a measure of professional competence in the field of departmental and inter-departmental organization to assure good drafting of reorganization proposals and effective implementation. This expertise has been missing for a number of years. By 1981 the GAO criticism of reorganization plan implementation led Congress to require that detailed implementation plans accompany each proposed reorganization in an effort to compensate for this lack of executive branch performance, and the problem continues.

Time after time we see departmental and agency organizations and reorganizations that muddle rather than clarify headquarters, field arrangements. Working arrangements among various field offices concerned with the same clients are often ad hoc and transitory. The relationship between the Secretary's office and the major operating elements of a department is seldom well thought through and is surprisingly ineptly managed in many departments today.

Departmental management leadership is fragmented by a series of laws, a deficiency President Bush has sought to avoid in the new Department of Homeland Security through the Under Secretary of Management, a highly desirable feature.

These and other issues can best be addressed by men and women with experience and expertise in organizing and managing large organizations, not by legal or budget experts, as is the case today.

A second ingredient for success with the reorganization plans is the need for cooperative working arrangements between the executive and legislative branches. Meaningful consultation with the relevant committees before sending a reorganization plan to Congress has been essential to the success of most Presidential reorganization plans.

Mr. Chairman, I would argue that the reason this authority has been permitted to expire in the past has often been due largely to the lack of executive branch consultation with the Congress before the plans go up. This is a very, very important, and I think essential feature.

And to be effective—and I think Mr. Walker alluded to this—executive branch consultation requires a maximum of bipartisanship on the part of the committees.

In response to several of the questions that have been raised, I believe that it is important that reorganization plans not be used or permitted to be used to add or reduce or eliminate programs. These plans should be focused on how to make Government work better and not what Government does.

I think there do need to be protections for employees. In each of the plans that we set forward, all of which succeeded, we had a statement and a commitment, and I'll read one of them. "All movements of functions and jobs will be governed by current law and Civil Service Commission—" this was when we still had the Civil Service Commission—"regulations with full employee protections and appeal rights. From an other standpoint, the reorganization can—" well, that's not relevant.

But one other statement. "Full consideration is also given to avoiding adverse impact of reorganization on the existence of Union recognition and agreements."

There have been questions about why you can't do this through regular legislation, which is certainly a valid question. When we were concerned about getting some kind of an organization in place to deal with the environmental protection problems, we couldn't get anywhere through regular legislation. There were just too many competing factions. The Congress was very pleased when we then came forward with a reorganization plan, and that's what resulted in the existence of the EPA today. Same thing was true of the Consumer Product Protection Commission.

Chairman TOM DAVIS. Mr. Ink, your red light has been on, if you can try to—we have your whole statements in the record, if you could try to—

Mr. INK. All right. Then let me just say, in addition to the restoring of reorganization plan authority, it is very important I think to view with great care the Volcker Commission recommendations that the Federal Government be reorganized in a limited number of mission-oriented departments, and that you would not handle through a reorganization plan authority.

Chairman TOM DAVIS. OK. Thank you very much.

[The prepared statement of Mr. Ink follows:]

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Testimony of

DWIGHT INK

Fellow, National Academy of Public Administration

Before the

HOUSE COMMITTEE ON GOVERNMENT REFORM

Hearing on Government Reorganization

April 3, 2003

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to testify at these hearings on government reorganization. This is a subject that attracts considerable discussion from time to time, but is dealt with largely on an ad hoc basis by both Congress and the White House. I am pleased that the current management agenda of the President includes a request that the Congress restore the presidential authority for submitting reorganization plans, a step that could be of some help in his managing the Federal Government's departments and agencies. And I am pleased that your Committee is taking the time to consider this request.

I am a Fellow of the National Academy of Public Administration and a member of its Standing Panel of Executive Organization and Management. However, my testimony reflects my personal views and not necessarily those of the Academy. My comments grow out of management experience in a number of federal agencies, including my role as Assistant Director for Executive Management in both BOB and OMB where I had responsibility for presidential reorganization plans and other restructuring initiatives. In that role, I and my staff handled seven plans, each of which resulted in significant reorganizations, including the establishment of OMB and EPA. We also developed legislation for broad departmental reorganizations that went beyond what would have been permissible under the president's reorganization plan authority.

I concur fully with your statement about the amount of overlapping and duplicative programs and agencies with conflicting objectives. Not only is this wasteful, it creates problems for many people and organizations served by these programs. Grant recipients such as local governments trying to utilize closely related programs, for example, are confronted by funding from different agency offices often located in different cities and states, with a variety of administrative systems and requirements, and differing policies.

This splintering of functions also blurs accountability because responsibilities are diffused among several different departments, none of which can be held accountable for more than a portion of a given function. Accountability is further blurred because the structural fragmentation results in issues gravitating to the White House that do not warrant presidential attention. They either clutter the president's desk and steal time that should be devoted to more critical issues of the day, or they are handled by White House staff. These staff members are usually very bright people, but they seldom have the needed indepth background on all these issues or ready access to the program expertise available to department heads. Further, they are not as accountable to the public or the Congress as department officials. Restoration of presidential reorganization authority, if properly used, could be a useful tool to reduce the problems of structural fragmentation, keeping in mind it is a tool with limitations.

My experience with reorganization plans date back to a period when the process permitted under the legislation was reasonably straightforward. Since then, the Chadha Supreme Court case has prevented use of the earlier method by which reorganization plans would become effective unless disapproved by Congress. However, I do not believe the scope of what can be accomplished under reorganization plan authority was reduced by the Chadha decision. At the same time, the authority did accumulate some barnacles, and I would agree that it would be best to simplify the law in the process of reauthorization. I agree with the notion of striking Section 903 and then deciding what, if anything, needs to be restored with respect to limitations.

I strongly support the concept of restoring reorganization plan authority if it provides assurance that a vote is taken after a specified period of time, and the authority limits or precludes amendments. This type of reauthorization could provide a vehicle for addressing a number of organization problems.

I would add, however, that passing the enabling legislation, while necessary, will not necessarily accomplish anything unless other steps are also taken. First, within the Executive Office of the President there is a need to restore a measure of professional competence in the field of departmental and inter-departmental organization to assure good drafting of reorganization proposals and effective implementation. This expertise has been missing for a number of years. By 1981, the GAO criticism of reorganization plan implementation led Congress to require detailed implementation plans to each proposed reorganization in an effort to compensate for this lack of executive branch performance.

The problem continues. Time after time we see departmental and agency reorganizations that muddle, rather than clarify, headquarters/field arrangements. Working arrangements among various field offices concerned with the same clients are often ad hoc and transitory. The relationship between the secretary's office and the major operating elements of a department is seldom well thought through. Departmental management leadership is fragmented by a series of laws, a deficiency the President has sought to avoid in the new Department of Homeland Security through the Under Secretary for Management, a highly desirable feature. These and other issues can best be addressed by men and women with experience and expertise in organizing and managing large organizations, not by legal or budget experts, as is the case today.

A second ingredient for success with reorganization plans is the need for cooperative working arrangements between the executive and legislative branches. Meaningful consultation with the relevant committees before sending a reorganization plan to Congress has been essential to the success of most presidential reorganization plans. During the first term of President Nixon, BOB (later OMB) consulted very carefully with congressional committees before forwarding his organization plans, all of which came into effect. At the beginning of his second term, however, as a drug reorganization plan was being drafted, Presidential Assistant John Erlichman told

OMB that the president wanted to discontinue such consultations, thereby creating tensions that prevented the reorganization authority from being renewed for several years.

To be effective, executive branch consultation requires a maximum of bipartisanship on the part of the committees. Over the many years I have worked with this Committee and its predecessors, I have been struck by the extent to which periods of strong bipartisanship have increased the influence of the Committee within Congress and with the Executive Branch.

Although I believe restoration of reorganization plan authority is a desirable step, I also urge the Committee to review with care the Volcker Commission recommendation that the federal government be reorganized into a limited number of mission directed executive departments. I recognize that accomplishing such a task is an enormous undertaking, far beyond what the reorganization plan efforts involve. It would require a high level of executive-legislative cooperation that is often in short supply, as well as considerable strengthening of management leadership capacity in the Executive Office of the President as well as in the affected departments and agencies. But I would argue that change is needed, and we should not permit the difficulty of large-scale reorganization to serve as an excuse for failure to address this issue.

In considering the Volcker recommendation, the Committee may wish to review the earlier work of the Ash Council and President Nixon's reorganization proposals. Designed to achieve much the same goals as those of the Volcker Commission, they were the most sweeping ever proposed by a president. They were gaining substantial support in Congress when Nixon abandoned the effort during the 1972 election. These proposals should not be confused with the very different ill-advised super-cabinet arrangements he tried to implement without legislation during his unfortunate second term. If it would be of interest, I would be happy to provide for the record a brief description of the legislative proposals developed by OMB as a result of the Ash Council recommendations.

I would be pleased to respond to any questions.

Chairman TOM DAVIS. Dr. Light, thank you for being with us.

Mr. LIGHT. Thank you very much for having me. I commend you and the committee for its work on this issue on both sides of the recruitment crisis, both how we get workers into Government and how we give them meaningful work that will keep them around for a while.

I commend to you the research report written by my colleague at CRS that summarizes the history of reorganization. It is a terrific report. There's nobody in America who knows more about reorganization.

I raised two questions in my testimony, the first being whether reorganization is a useful approach to solving some of the problems today. Simply asked, if reorganization is the answer, what is the question? I think there is a very strong defense to be made here for reorganization as one of the ways of improving Government performance.

Let me note, in response to some of the testimony that I have read, that reorganization is not a tool for downsizing. The term "reorganization" is not in any thesaurus that I know alongside "downsizing." In fact, my hope would be that reorganization authority would produce significant de-layering at the upper and middle levels of the Federal hierarchy that would allow resources to flow down toward the lower levels where the services get delivered.

A one-third cut in the number of Presidential appointees would score \$100 million in savings for this committee on a yearly basis. A one-third cut in the number of Federal managers would score another \$2.8 billion, more or less. If you're looking for dollar savings, the savings are to be found at the middle and upper levels of the hierarchy, not at the bottom.

But the real value of reorganization is through its impact on performance. I have compared the Federal organization chart to the mouth of the Elongabora River at low tide as it struggled to confront Humphrey Bogart in "The African Queen." It is a mess. It's a nightmare of duplication and overlap. It hampers Federal employees' ability to get their jobs done. It undermines mission. It is time to do something about it.

You can do something about it through commission. In 1988, under the Department of Veterans Affairs Act, the Senate and the House, both held by Democrats at that point in time, passed legislation creating a National Commission on Government Restructuring that was actually rejected by the first President Bush as being too intrusive and not particularly helpful to his management agenda at that point in time.

I would say that the reinventing government campaign did include restoration of reorganization as one of their top priorities, but they could not get that through Congress at that point in time.

My testimony contains a strong endorsement of reorganization authority properly limited so that Congress has the opportunity to weigh in on difficult issues, so that Congress can restrain their reorganization authority to a fixed point in time. We're not talking here, I think, and the Volcker Commission I do not believe favored the creation of permanent reorganization authority but rather limited reorganization authority that could be used to clean up the very significant problems in the Federal organizational hierarchy.

Now, on the Constitutional questions, I agree with my colleagues that there is a proper and important role that the U.S. Congress plays in reorganization. I am an Article I person, as well. My service has all been on Capitol Hill, both for the House and the Senate, but the founding fathers did not intend the legislative process to be a nightmare of endless delay. That's why they gave Congress authority to create extra Constitutional devices such as the Conference Committee to speed the legislative process.

I remind the committee of Alexander Hamilton's statement that a government ill executed, whatever it may be in theory, is a bad government. To the extent that we do not improve and address the significant problems in the organization of the Federal Government, we will continue to diffuse accountability, we will continue to undermine performance, and ultimately we will continue to erode the public's confidence in the Federal Government's ability to perform.

I'm open for any questions that you may have.

Chairman TOM DAVIS. Thank you very much.

[The prepared statement of Mr. Light follows:]

RESTORING THE PRESIDENT'S REORGANIZATION AUTHORITY

TESTIMONY BEFORE THE UNITED STATES
HOUSE GOVERNMENT REFORM COMMITTEE

PAUL C. LIGHT

WAGNER SCHOOL OF PUBLIC SERVICE
NEW YORK UNIVERSITY

DIRECTOR, CENTER FOR PUBLIC SERVICE
THE BROOKINGS INSTITUTION

APRIL 3, 2003

Thank you for inviting me to share my comments on proposals to restore the President's reorganization authority under statute. Having been before this Committee and others regarding the Department of Homeland Security, I can testify to the importance of reorganization as a tool for tightening executive performance. As we have seen in the case of homeland security, reorganization offers a significant opportunity to align agencies by mission rather than constituencies. If done well, which I believe is the case in homeland security, it can strengthen accountability, reduce wasteful duplication and overlap, tighten administrative efficiency, improve employee motivation, and provide the kind of integration that leads to impact.

The question before this Committee today is not whether reorganization can provide needed improvements in government performance, however, but whether Congress should give the President of the United States reorganization authority of some kind. I believe the answer is absolutely yes, particularly if granted through the expedited model envisioned by the National Commission on the Public Service chaired by former Federal Reserve Board Chairman Paul Volcker. As Chairman Volcker and fellow commissions Donna Shalala and Frank Carlucci testified before this Committee last month, reorganization is their number one recommendation for improving government today. As they also testified, it is also the most difficult recommendation to implement. That is why the Commission believed Congress should create a procedural presumption in favor of reorganization through the enacting of a "fast-track" or expedited authority. Such a presumption would not assure that all presidential reorganizations would succeed, but it would certainly give them a fighting chance.

My support for renewed reorganization authority is based on the answers to two separate questions: (1) Does reorganization hold significant promise for improving government performance, and (2) If so, how can reorganization plans be given some hope of legislative action?

1. Why Reorganize?

The threshold question in restoring some form of reorganization authority is whether there is any reason to believe that such authority holds the promise of better government performance. I believe there are at least six answers in the affirmative:

1. *Reorganization can give greater attention to a priority such as homeland security or food safety.* That was certainly the case in the creation of the National Aeronautics and Space Administration following the launch of Sputnik in 1957, and to the creation of the Environmental Protection Agency in 1970.
2. *Reorganization can reduce overlap and duplication among widespread programs, thereby increasing accountability and efficiency.* Consider, for example, the potential impact of finding some way to integrate the agencies currently involved in administering the nation's 35 food safety statutes, the 15 departments and agencies currently involved in administering more than 160 employee and training programs, or the 11 agencies and 20 offices involved in the federal government's roughly 90 childhood programs.

3. *Reorganization can create a platform for a new and/or rapidly expanding governmental activity.* That was certainly the goal in creating the Department of Housing and Urban Development in 1965. Although the federal government was involved in housing long before HUD, the new department was built as a base for what was anticipated to be a rapid rise in federal involvement.
4. *Reorganization can force greater cooperation among large, quasi-independent agencies such as the Coast Guard and Federal Aviation Administration.* That was certainly the goal of the early reorganizations of energy agencies, which eventually spurred creation of the Department of Energy. And it was the goal in creating the Department of Transportation in 1966.
5. *Reorganization can create greater transparency in the delivery of public goods and services to and on behalf of the public?* That was clearly the goal in creating the Department of Health, Education, and Welfare in 1953, which was originally submitted as a reorganization plan before emerging as separate legislation.
6. *Reorganization can improve employee satisfaction and performance.* Surveys of federal employees suggest that roughly a third (1) cannot easily describe the mission of their organizations, and, therefore, (2) cannot easily describe how their jobs personally contribute to the mission of their organizations. Assuming that employees who know their mission are more satisfied and productive, reorganization can be a source of improved performance.

Despite this endorsement, it is important to note that reorganization is not a palliative for poorly designed programs, inadequate funding, or contradictory statutes. Merely combining similar units will not produce coherent policy, nor will it produce greater performance, increase morale, or raise budgets. It most certainly will not make broken agencies whole. If an agency is not working in another department, there is no reason to believe that it will work well in the new department. Bluntly put, garbage in, garbage out. Conversely, if an agency is working well in another department or on its own as an independent agency, there is no reason to believe that it will continue to work well in the new department.

2. How to Reorganize?

If one believes that reorganization holds significant promise for improving government performance, the question becomes how to assure that reorganizations have at least some chance of passage. The answer, I believe, is restoration of presidential reorganization authority.

The history of reorganization authority suggests four lessons in drafting a new version of the reorganization authority that existed in one form or another from 1930 to 1984.

First, there has only been one moment in history when the President was given "permanent" reorganization authority, and that authority, contained in the 1932 Economy Act, was repealed nine

months later. To the contrary and with but one exception in 1953, which Congress immediately modified, Congress has always restricted reorganization authority to the term of the President in office.

Second, Congress has always reserved a substantial, if expedited, role for itself in considering reorganization. Every reorganization bill since 1939 has carried some form of legislative veto or review, whether a single or dual-house veto, in either a disapproval or approval mode. Lacking such a formal mechanism for review following the U.S. Supreme Court decision in *Chada v. INS*, Congress allowed the authority to lapse. Reorganization did not grind to a halt, however. Congress created a new mechanism for expedited review of military reorganizations under the Base Realignment and Closure Act of 1988, and used an expedited review process for House consideration of the Homeland Security Act of 2002.

Third, Congress has restricted the purposes of reorganization in the past, most notably by prohibiting the use of reorganization plans to create or reorganize departments of government. In addition, Congress has always reserved the right to review implementation of reorganization activity under a variety of methods, including a variety of forms of notification and oversight.

Fourth, Congress has always had authority to place limits on specific reorganizations created through statute. Although Congress gave the IRS Commissioner broad authority to design and implement a new personnel system in 1998, it provided clear directions on how the new system was to work. It gave the Commissioner the freedom to hire and pay his senior executives outside the civil service system, but limited the number of positions to no more than 40. It gave the Commissioner authority to give those executives larger bonuses, but placed a check on the size of those awards by requiring the Secretary of the Treasury to approve any amounts that exceed more than 20 percent of executive base pay. It permitted the IRS to create new personnel demonstration projects and increase cash awards for performance, streamlined the employee disciplinary process, and gave the Commissioner authority to offer employee buyouts through January 1, 2003. In sum, Congress and this Committee gave the Commissioner broad authority, but did so through seven pages of statutory text setting limits and informing the IRS workforce about the range of authority.

Within these limits, reorganization is an essential ally in the pursuit of greater performance in government. If done well, it can reduce needless overlap and duplication, while focusing federal employees more clearly on a specific mission. It can also tighten accountability by creating a single chain of command leading from the front-lines to the President and Congress.

Next Steps

The promise can only be realized with great care in the exercise of the authority. It is perfectly reasonable, for example, to require that all reorganization plans meet certain standards before transmittal. Toward that end, this Committee might wish to give the executive branch clear guidance on the structure of new personnel systems envisioned in any reorganization, while restating existing standards regarding financial management, information security, and other administrative requirements.

Within those guidelines, it is also imperative that Congress give reorganization plans expedited consideration in the legislative process. Such consideration can be created under several options suggested by the Volcker Commission. It is relatively easy to construct a fast-track mechanism to give Congress enough time to review a reorganization plan, whether through a Base Closure and Realignment Act mechanism requiring an up-or-down vote on all elements of a plan, or through some kind of "most-favored" status requiring expedited consideration in the legislative process.

Ultimately, reorganization is best seen as merely one of several steps for improving organizational performance. It may create a greater presumption in favor of performance, but can only succeed if this and other committees are successful in helping the executive branch achieve its other management goals. At the same time, the executive branch cannot achieve its other management goals, most notably the strengthening of human capital, if it does not undertake the aggressive restructuring that reorganization authority would encourage.

Management improvement and reorganization are, therefore, two sides of the same coin. It makes no sense to improve recruiting systems if new employees are condemned to work in poorly structured departments with fuzzy missions and needless layers of political and career bureaucracy. At the same time, it makes no sense to streamline agencies and endure the political battles of reorganization if management systems continue to creak along at sub-glacial speed. Why bother to reorganize if human capital continues to atrophy? Why bother to invest in human capital if the bureaucracy continues to stifle performance?

The fact that this Committee is moving forward on both issues simultaneously speaks well to a possible renaissance in public service at the federal level. It is only by creating work that matters that the federal government will be able to recruit its fair share of workers who excel.

Chairman TOM DAVIS. Ms. Kelley, thanks for being with us.

Ms. KELLEY. Thank you. Good afternoon, Chairman Davis, members of the committee. As the national president of NTEU, I appreciate the opportunity to be here on behalf of the 150,000 employees. Thank you. It is my pleasure to be here on behalf of the 150,000 employees in 29 agencies who are represented by NTEU.

The issue for today's hearing is what authority the President should have to reorganize the Federal Government. The question here goes to the fundamental basis of our Government. The founding fathers of our Nation developed a Constitution with careful checks and balances among the powers and authorities of the various branches of the Government. It is something not to be lightly changed or put out of balance.

The President, as Chief Executive, has wide and broad authority over the executive branch. He appoints key personnel. He directs the policy and the functions of executive branch agencies. By Exhibit order he can direct inter-agency collaboration and set certain personnel policies.

Our American system of checks and balances exists to restrain one branch from seeking to centralize power at the expense of the others. With each branch dependent on the others in various ways, the system encourages cooperation and accommodation, frequently by negotiation, by bargaining, and by compromise. Congressional action is required to create executive branch departments, to fund them, to determine their nature and the scope of their duties, and to confirm the appointment of their top leaders. One would hope that Congress would not lightly give away these rightful prerogatives.

Fast track style schemes eliminate all opportunities for meaningful dialog and review by Congress. Moreover, it is the legislative process where the public is able to comment. You have called me and the other witnesses here today this morning, I assume because you and your colleagues see congressional hearings and the questioning of witnesses, including administrative witnesses, as something that is worthwhile and beneficial. Reorganization plans presented to Congress that are fully developed and unamendable leave no room for input from the public.

Many parties are affected by reorganizations—agency managers, front line employees, customers of the agency, entities regulated by the agency. None of these has the right to expect their own particular interest should obstruct a wise and needed reorganization, but none of these communities should be denied the opportunity to have their legitimate input into the dialog and discussion that develop such a proposal.

My own Union's recent experience with the Homeland Security legislation confirms my opposition to this proposal. There were important and positive changes made to the Homeland Security legislation as it moved through Congress, and some of those changes were authored by you, Mr. Chairman. Would the people really have been better served if a massive reorganization like Homeland Security was unamendable?

The President's original proposal did not contain whistleblower protection for employees. It did not require merit principles. It did not ensure that non-Homeland defense functions of merged agen-

cies would be maintained. While NTEU did not support all of the changes made to the legislation, it would be shocking if such a monumental reorganization would be unamendable subject only to a single up or down vote by each house of Congress.

And while I understand, Mr. Chairman, that you and I may have some different views on the process that developed the Department of Homeland Security legislation, I think that the Homeland Security legislation is an example of Congress being able to produce change when it feels it is important. However, NTEU can only oppose any legislation that would have prevented important employee rights such as whistleblower protection, collective bargaining rights, and employment based on merit principles rather than on favoritism from being added to the Homeland Security legislation or to any future reorganization proposal.

Some have proposed giving the President this authority as a way to achieve the spending cuts assigned to this committee by the House-passed budget resolution. That resolution calls for \$1.1 billion in 2004 and nearly \$40 billion over 10 years to be cut from programs under this committee's jurisdiction to pay for hundreds of millions of dollars in tax reductions for wealthy dividend holders and others. Federal employees should not be made to sacrifice their health care or their retirement security to finance tax cuts for the wealthy, nor should agency budgets already cut to the bone be used for this purpose. Asking this committee such obligations will mean that Federal workers will end up financing these tax giveaways to high-income persons. This is wrong and NTEU strongly objects to it.

Chairman Davis, as always I appreciate the opportunity to testify before you and will be happy to answer any questions you or the committee might have.

Chairman TOM DAVIS. Thank you.

[The prepared statement of Ms. Kelley follows:]

**Statement of
COLLEEN M. KELLEY
NATIONAL PRESIDENT
NATIONAL TREASURY EMPLOYEES UNION**

before the

**COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
April 3, 2003**



**STATEMENT OF COLLEEN M. KELLEY
NATIONAL PRESIDENT
NATIONAL TREASURY EMPLOYEES UNION**

before the

**COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
APRIL 3, 2003**

Good morning Chairman Davis, Ranking Member Waxman and members of the Committee on Government Reform. My name is Colleen M. Kelley and I am the National President of the National Treasury Employees Union (NTEU). NTEU represents 150,000 federal workers in 29 agencies. I appreciate the opportunity to appear before the Committee today.

The issue for today's hearing is what authority the President should have to reorganize the federal government. The Courts have ruled unconstitutional previous means of Presidential reorganization authority. This section of Title V, (5 U.S.C. Chapter 9) allowed the President to eliminate, consolidate, transfer, and rename executive agencies, working outside the legislative process, limited only by a one house Congressional veto. Congress had no power to amend, alter or modify a reorganization plan, only approve or disapprove it. In 1983 the Supreme Court found such one-house veto provisions unconstitutional.

The question here does go to the fundamental basis of our government. The founding fathers of our nation developed a Constitution with careful checks and balances among the powers and authorities of the various branches of government. This is the most remarkable and profound aspect of our American constitutional system. It is something not to be lightly changed or put out of balance. The President, as chief executive, has wide and broad authority over the Executive Branch of government. He appoints key personnel, only a minority

and at the highest levels, requiring Senate confirmation. He directs the policy and functions of Executive Branch agencies. By Executive Order he can direct interagency collaboration and set certain personnel policies.

Yet even with this broad authority, the President does not have unilateral and unrestrained authority over the Executive Branch. Our American system of checks and balances exists to restrain one branch from seeking to centralize power at the expense of the others. With each branch dependent on the other in various ways, this system encourages cooperation and accommodation, frequently by negotiation, bargaining and compromise.

Congressional action is required to create Executive Branch departments, to fund them, to determine the nature and scope of their duties and to confirm the appointment of their top leaders. One would hope that Congress would not lightly give away these rightful prerogatives. But Constitutional scholars have noted that at times Congress has unconstitutionally evaded its responsibility for hard decisions by creating complicated schemes for shifting visible responsibility away from itself.

Fast track style schemes, while still leaving a difficult but not non-existent means of Congressional veto, eliminate all opportunities for meaningful dialogue and review by Congress. Moreover, it is the legislative process, particularly Congressional hearings, where the public is able to comment on the structure and function of their government. Mr. Chairman, I assume that you have called me and the other witness here this morning because you and your colleagues see Congressional hearings and the questioning of witnesses (including Administration witnesses) as something worthwhile and helpful to good government. Reorganization plans presented to Congress fully developed and unamendable leave no room for input from the general public. Many parties are affected by reorganizations: agency managers, employees, customers of the agency, entities regulated by the agency, etc. None of these has the right to

expect their own particular interest should obstruct a wise and needed reorganization, but none of these communities should be denied the opportunity to have their legitimate input into the dialogue and discussion that develops such a proposal. Allowing the President to ram through reorganization plans without providing a fair opportunity for all the issues to be fully aired does an injustice to the American public. The most well-known use of fast track authority is with foreign trade deals. There the argument is the President is negotiating with another government and cannot have the agreement amended. In an Executive Branch reorganization, the President is not negotiating with anyone before he sends his proposal to Congress. It is his unilateral initiative.

The Volker Commission suggested that the President have the initiating role in government reorganization. I would not argue with that. But fast track authority goes far beyond an initiating role for the President. It eliminates any thoughtful consideration or debate by Congress.

My own union's recent experience with the Homeland Security legislation confirms my opposition to this proposal. There were important and positive changes made to the Homeland Security legislation as it moved through Congress, some authored by you, Mr. Chairman. Would the people really have been better served if a massive reorganization like Homeland Security was unamendable? The President's original proposal did not contain whistleblower protection for federal employees. It did not require merit principles. It did not ensure that non-Homeland defense functions of merged agencies would be maintained. While NTEU did not support all of the changes made to the legislation, it would be shocking if such a monumental reorganization would be unamendable, subject only to a single, up or down vote by each house of Congress.

I think the Homeland Security legislation is an example of Congress being able to produce change when it feels it is important. However, NTEU can

only oppose any legislation that would have prevented important employee rights such as Whistleblower protection, collective bargaining rights and employment based on merit rather than favoritism, from being added to the Homeland Security legislation or to any future reorganization proposal.

Some have proposed giving the President this authority as a way to achieve the spending cuts assigned to this Committee by the House passed Budget Resolution. That calls for \$1.1 billion in FY '04 and nearly \$40 billion over ten years to be cut from programs under this Committee's jurisdiction to pay for hundreds of millions of dollars in tax reductions for wealthy dividend holders and others. This is irresponsible government at its worst. Federal employees should not be made to sacrifice their health care or retirement security to finance tax cuts for the very wealthy. Nor should agency budgets, already cut to the bone, be used for this purpose either. Assigning this Committee such obligations can mean nothing other than the fact that federal workers will end up financing these tax giveaways to high income persons. This is wrong and NTEU strongly objects to it.

Chairman Davis, I always appreciate the opportunity to testify before you and would be happy to answer any questions you or other members of the Committee may have for me. Thank you.

Chairman TOM DAVIS. Mr. Roth, thanks for being with us.

Mr. ROTH. Mr. Chairman and members of the committee, on behalf of the American Federation of Government Employees, which represents 600,000 Federal workers, I thank you for the opportunity to testify today on efforts to provide the executive branch expanded authority to downsize, consolidate, or reorganize the Federal Government. I note for Professor Light's acknowledgement, the current 901 does say "abolition of functions," so it is not just transfers or consolidations.

AFGE strongly opposes an expansion of this authority because the traditional legislative process already allows lawmakers and policymakers sufficient opportunities to downsize the Federal Government. Moreover, allowing the executive branch expanded authority to downsize would deprive the legislative branch of its crucial obligation to carefully scrutinize any downsizing proposals.

The expanded downsizing authority contemplated in 5 U.S. Code 901 essentially allows officials of the executive branch to submit proposals to consolidate and abolish agencies and functions they believe "may not be necessary for the efficient conduct of the Government." The proposals are automatically introduced as resolutions and referred to the House Government Reform and Senate Governmental Affairs Committees. Failure of a committee to report a resolution within 75 days automatically places a resolution on the calendar. Any Member may move to proceed to consideration of the resolution. That motion may not be debated, postponed, or reconsidered. Debate is limited to no more than 10 hours. A motion to limit debate is in order and not debatable; however, a motion to postpone, proceed to other business, recommit, or reconsider is not in order. Moreover, the resolution cannot be amended.

In the area of the Department of Homeland Security, this would have been, in my opinion, unthinkable. In effect, the process is a total abrogation by Congress of its role to carefully design and monitor the functionality of the executive branch. It is ironic that the renewed interest in expanding the executive branch's authority to downsize the Federal Government, at the expense of the legislative branch responsibility to carefully review and scrutinize such proposals, should be the subject of renewed interest at a time when one party controls the House of Representatives, the Senate, and the White House, and it is no longer possible to contend that the dreaded gridlock of partisanship prevents fair consideration of truly meritorious downsizing measures.

If agency X is clearly performing a function that agency Y is also performing and agency X is not performing it in a supplementary or complementary fashion, why is there a need for expanded downsizing authority? Lawmakers and their allies in the executive branch who believe that agency X is clearly superfluous should hold hearings, introduce the necessary abolition legislation, make common cause with similarly minded authorizers and appropriators, and simply get on with their work. In fact, such downsizing proposals, if they are as meritorious as advertised, could even be passed in the House under suspension.

If downsizing proposals have merit, why do they need to be placed on an accelerated fast track that guarantees them floor time regardless of their content? Why must debate on downsizing pro-

posals be limited through onerous time constraints? And why is it that the downsizing proposals cannot even be amended? There is, in our view, no valid rationale.

Interestingly, the Heritage Foundation and the Clinton administration—not two natural allies, I might point out—agree that during the 104th Congress, which was a particularly partisan period of our Nation's history, at least 250 separate programs, offices, agencies, projects, and divisions were eliminated completely either through legislation or administrative fiat. It must be acknowledged that these documented efforts were completed through the traditional legislative or administrative process and not as a result of expanded authority. If the divided 104th Congress and the Clinton administration could downsize the Federal Government, what is stopping the united 108th Congress and the hard-charging Bush administration from enacting into law rational downsizing proposals through the customary legislative process? The answer is nothing.

The traditional legislative process fosters deliberation, close scrutiny, and compromise. These are good things.

Just several additional points in closing.

Federal employees and their unions know all too well how easy it is already to downsize the Federal Government without resorting to expanded authority. The Federal work force has already been arbitrarily hacked and whacked unilaterally by the executive branch by hundreds of thousands of employees since 1993. The result of this indiscriminate downsizing is a self-inflicted human capital crisis, with agencies experiencing severe shortages of Federal employees in key occupational category after category.

This proposal you are considering would simply ensure even less deliberation and compromise and more inappropriate politicization of Government.

In addition, in the last decade or so massive reorganizations and streamlining of Government has occurred and is still occurring through the natural processes. Through legislation, the Social Security Administration became an independent agency and the IRS was transformed. Parts of 22 agencies just recently were consolidated into the Department of Homeland Security. And, Chairman Davis, it may not have been a pretty or easy process, but needed compromises were arrived at and a better product ultimately was achieved.

Through administrative action since the 1990's, 78,000 duplicative management positions were eliminated, 2,000 obsolete field offices were closed, and over 200 programs and agencies like the Tea Tasters Board and mohair subsidies were eliminated. In Department of Defense, on its own initiative, the Defense Logistics Agency consolidated all service logistics functions, reduced to two regions, and went from 90,000 employees to 40,000. DOD consolidated and streamlined finance functions into DFAS, commissary functions into DECA, and printing functions into DPS, all without legislation.

Chairman TOM DAVIS. Mr. Roth, your total statement is in the record.

Mr. ROTH. OK. Let me just say that massive streamlining is going on today as we speak. AFGE has partnered in those propos-

als that are rational. And, as always, we stand ready to work with you, Mr. Chairman, on a variety of measures that would result in savings for taxpayers, including the reestablishment of labor/management partnerships, and improved administration of service contracts.

Chairman TOM DAVIS. Thank you.

[The prepared statement of Mr. Roth follows:]



AFGE

Congressional Testimony

STATEMENT BY
MARK ROTH
GENERAL COUNSEL
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO
BEFORE
THE HOUSE COMMITTEE ON GOVERNMENT REFORM
REGARDING
AN EXPANSION OF AUTHORITY TO DOWNSIZE
FEDERAL AGENCIES AND FUNCTIONS
ON
THURSDAY, APRIL 3, 2003

American Federation of Government Employees, AFL-CIO
80 F Street, NW, Washington, D.C. 20001 ★ (202) 737-8700 ★ www.afge.org



Mr. Chairman and Members of the House Government Reform Committee:

On behalf of the American Federation of Government Employees, AFL-CIO, which represents 600,000 federal workers who serve the American people across the nation and around the world, I thank you for the opportunity to testify today before the House Government Reform Committee on efforts to allow the executive branch expanded authority to downsize the federal government. National President Bobby L. Harnage, Sr., regrets that his schedule would not allow him to appear this morning and participate in this important hearing.

AFGE strongly opposes an expansion of such authority because the traditional legislative process already allows lawmakers and policymakers sufficient opportunities to downsize the federal government. Moreover, allowing the executive branch expanded authority to downsize would deprive the legislative branch of its prerogative to carefully review any downsizing proposals. Although an expansion of the executive branch's downsizing authority usually finds favor with lawmakers and policymakers who also support the establishment of a downsizing commission, I will generally limit my remarks to references to the lapsed expanded downsizing authority established in 5 U.S.C. 901 *et. seq.*

That expanded downsizing authority essentially allows officials of the executive branch to submit proposals to, within certain limits, consolidate and abolish agencies and functions they believe "may not be necessary for the efficient conduct of the Government." The proposals are automatically introduced as resolutions and referred to the House Government Reform and Senate Governmental Affairs Committees. Failure of a committee to report a resolution within 75 days automatically places the resolution on the calendar. Any member may move to proceed to consideration of the resolution. That motion may not be debated, postponed, or reconsidered. Debate is limited to no more than ten hours. A motion to limit debate is in order and not debatable. However, a motion to postpone, proceed to other business, recommit, or reconsider is not in order. The resolution cannot be amended.

Interest in expanding the executive branch's authority to downsize the federal government has picked up in some quarters because of the recent passage of the budget resolution in the House of Representatives that requires the House Government Reform Committee to impose cuts of \$38.3 billion over the next ten years in programs under its jurisdiction. The cuts are necessary to, in significant part, pay for the Administration's ten-year, \$726 billion tax cut package, which has been much criticized for showering its benefits disproportionately on the wealthiest Americans. As a result of a colloquy on the floor, it was established that "it is possible to meet the savings targets within the budget resolution without making any changes to Federal retirement annuities paid to participants in the Civil Service Retirement System, the Federal Employees Retirement System, and the Federal Employees Health Benefits Program." Instead, it was agreed

that the House Government Reform Committee "may write legislation that also achieves significant savings in discretionary programs."

Hence, the renewed interest in expanding the executive branch's authority to downsize the federal government at the expense of the legislative branch's prerogative to carefully review such proposals. It is ironic that such a proposal should be the subject of renewed interest at a time when one party controls the House of Representatives, the Senate, and the White House, and it is no longer possible to contend that the dreaded "gridlock of partisanship" prevents fair consideration of truly meritorious downsizing measures.

One wonders why policymakers and lawmakers who believe so devoutly that there are agencies in need of consolidation and abolition are unable to find opportunities to demonstrate the courage of their convictions and pursue such efforts through the usual legislative processes. For example, if agency X is clearly performing a function that agency Y is also performing, and agency X is not actually performing in a supplementary or complementary fashion, then there is no need for expanded downsizing authority. Lawmakers (and their allies in the executive branch) who believe that agency X is clearly superfluous should hold hearings, introduce the necessary abolition legislation, make common cause with similarly-minded authorizers and appropriators, and get on with their work. In fact, such downsizing proposals, if they are as meritorious as advertised, could even be passed in the House under suspension, a process that includes special expedited features that are also part of the expanded downsizing authority, including limited debate and a prohibition against amendments.

Instead, rather than working to advance their proposals, they insist that the merits of their downsizing ideas are self-evident and that the failure of them to be enacted into law owes itself entirely to a "cumbersome legislative process." If the merits of their downsizing proposals are so self-evident, why need they be placed on an accelerated fast-track that guarantees them precious floor time regardless of their content? Why must debate on downsizing proposals be limited through onerous time constraints? And why can the downsizing proposals not be amended?

Interestingly, the Heritage Foundation asserts that during the 104th Congress, which was a particularly partisan period of our nation's history, "more than 270 separate programs, offices, agencies, projects, and divisions were eliminated completely." During a similar period, the Clinton Administration claimed credit, through its National Performance Review, for the elimination of 250 programs and agencies. While conceding that there may be some double-counting for the accomplishments, both genuine and otherwise, of these zealous downsizers in the legislative and executive branches, it must also be acknowledged that such efforts were completed through the traditional legislative process, and not as a result of expanded downsizing authority. If the divided 104th Congress and the Clinton Administration could downsize the federal government, what is stopping

the united 108th Congress and the hard-charging Bush Administration from enacting into law downsizing proposals through the customary legislative process? Nothing, of course, other than the contents of those proposals. In fact, it could be said that the decision by Reagan Administration officials not to seek the renewal of the expanded downsizing authority in 1984 represents an implicit recognition that it was a perfect example of "overlapping and duplication," to use the words of the statute, of the traditional legislative process, and was therefore eminently deserving of abolition.

Federal employees and their unions know all too well how easy it is to downsize the federal government without resorting to expanded downsizing authority. The federal workforce has been arbitrarily hacked and whacked by hundreds of thousands of employees since 1993. The result of this indiscriminate downsizing is a self-inflicted "human capital crisis," with agencies experiencing severe shortages of federal employees in occupational category after category. It is unclear why expanding the executive branch's downsizing authority, in a way that is specifically designed to avoid careful consideration of its proposals, would somehow result in more thoughtful human capital planning.

Moreover, the Bush Administration is picking up where its predecessor left off with respect to the imposition of arbitrary reductions in the size of the federal workforce by forcing agencies to review for privatization, all too frequently with no public-private competition, at least 850,000 federal employee jobs over the next several years. Of course, as everyone should know by now, privatization doesn't result in a smaller federal government; rather, it results in a more unaccountable federal government (because the work of contractors is not tracked in the same way as work performed by federal employees), a less flexible federal government (because agencies can immediately alter a line, add a shift, or change the scope of work with federal employees, without the time-consuming negotiations and costly contract change orders and modifications insisted on by contractors), and a less reliable federal government (as evidenced by the bipartisan support for the recent contracting in of the airport screening function).

There is even less human capital planning associated with the Bush Administration's privatization effort than with the Clinton Administration's more straight-forward downsizing effort. In fact, Office of Federal Procurement Policy Administrator Angela Styles, the enforcer of the Bush Administration's infamous privatization quotas, according to GovExec.com, recently acknowledged in testimony before the Senate Armed Services Subcommittee on Readiness and Management Support that "Our concern has been that over the past two years, agencies have made decisions to directly convert (i.e., give work to contractors without competition) that have not been in the best interest of the taxpayer...We do not want that to continue." Of course, such abuses have occurred precisely because the Administration's privatization quotas explicitly encourage agencies to directly convert work performed by federal employees. Indeed, an agency's

failure to achieve these rigid quotas can result in a severe sanction: even more downsizing of that agency's in-house workforce.

Supporters of expanded downsizing authority, particularly those partial to the establishment of a downsizing commission, often cite the controversial base closure and realignment (BRAC) process for precedential value. However, BRAC, which, it must be noted, has been used to privatize as well as downsize, is not on point. BRAC was established after a consensus was formed, at the end of the Cold War, that the nation's defense infrastructure was in excess of our strategic needs. There has been no such cataclysmic event for non-DoD agencies, and, consequently, there is no comparable consensus for downsizing. Moreover, it is one thing to reduce and realign defense installations in accordance with a broadly-supported revision of America's strategic needs through expanded downsizing authority. It is another thing entirely to provide expanded downsizing authority to review functions in every single agency to an Administration that approaches almost all issues involving the role of the federal government and the importance of an independent civil service from a particular—and, for many, problematic—ideological perspective.

While often portrayed as a weapon, however superfluous itself, in the war on waste and inefficiency, expanded authority for downsizing could be used to expedite the elimination of programs and agencies out of favor with the incumbent Administration for ideological reasons. Per 5 U.S.C 901, the expanded downsizing authority could be used broadly to “abolish such agencies or functions...as may not be necessary for the efficient conduct of the Government.” Indeed, Senator Sam Brownback (R-KS), who intends to reintroduce legislation that languished during the previous Congress to establish a downsizing commission has said that his bill would expand downsizing authority to abolish agencies that are “failed” or “irrelevant.” To say that such determinations are subjective is to engage in understatement on a colossal scale. Clearly, however, it can be said that there are lawmakers and policymakers who want to use expanded downsizing authority—with its severe or even absolute limitations—on debate, amendments, and careful consideration, to revisit and perhaps even reverse the fights their predecessors started losing as long ago as the establishment of the New Deal.

In just a little more than two years, the current Administration has subjected the reliable and experienced middle- and working-class Americans who actually make the federal government work to one attack after another. As has been remarked ruefully in the federal government's worksites across the nation, “If the Bush Administration can't bust the unions of federal employees, or strip federal employees of their civil service protections against politics, discrimination, and favoritism, then it will privatize the jobs of federal employees.” Given the current Administration's strong and unmistakable antagonism towards federal employees and the important work they perform, it should come as no surprise that AFGE strongly opposes any measure that would allow it expanded authority to pursue

its controversial agenda, especially when the traditional legislative process has proven, as recently as during the previous Administration, to allow for the enactment of a multitude of downsizing measures, both meritorious and otherwise.

As always, however, AFGE stands ready to work with you, Chairman Davis, on a variety of measures that would result in savings for taxpayers and innovations for all Americans who depend on the federal government for important services, including the reestablishment of labor-management partnerships, improved administration of service contracts, imposition of cost accounting standards on Federal Employee Health Benefits Program carriers, comprehensive reform of corporate welfare-style privatization, and abolition of wasteful privatization quotas that discourage the consideration of the consolidations and transfers sought by supporters of the expanded downsizing authority.

Thank you for this opportunity to testify today, Chairman Davis. I will be happy to respond to any questions. AFGE also looks forward to providing our comments on any related legislation that might be drafted subsequent to this hearing.

Chairman TOM DAVIS. Thank you very much. I appreciate everybody's perspective on this. Obviously, people come at this from different perspectives. It is important for us to understand all of them.

I think what is important to understand is we heard in Mr. Ink's testimony the issue for us is how the Government performs something, not whether we perform it or not. That's a huge issue. This is not a downsizing issue, in my judgment.

And let me just ask you, Mr. Roth and Ms. Kelley, if we could, as a part of this, ensure that you wouldn't be eliminating employee jobs, that you'd have whistleblower protections, collective bargaining rights, that you'd have merit, not favoritism, could you support under those circumstances and allow at least an alignment of duties to go under the executive branch and allow them to do it without coming up to our different committees and have it picked apart for petty jurisdictional reasons?

Ms. KELLEY. I am more than willing—NTEU is more than willing to talk about anything that would be added that would provide those kinds of things, Mr. Chairman. The concern, however, continues to be the inability to question or amend if all of those things that were important not just to employees but to the agency to be able to function and to the taxpayers who they are trying to serve. But I would be more than willing to look at anything you were willing—

Chairman TOM DAVIS. That's a fair answer, and I think—I mean, one of the difficulties is that many times what has stymied the ability of administrations, both Republican and Democrat, to realign is Congress, is petty jurisdictional issues that, frankly, hold up much greater ways to save and be efficient and do things, and that's what we're trying to get at. This is not an effort to try to downsize and eliminate, and certainly on contracting out we could put safeguard language where you could use this authority if that's what you want to do. I don't have any problem with doing those kind of things. If that's the agenda then they ought to come up here separately. If you want to eliminate the Mohair Board or something, that's fine. They could come up here and do that and they would not—this procedure would not be usable for them.

But when you start having all of the different child care agencies working under different authorities and try to consolidate that, you also shouldn't have to go through the House and the Senate and the jurisdictional issues that you reach with each subcommittee who doesn't want to lose a piece of it, too. And that's really the goal in trying to get at this.

I know it is difficult to understand that at its face value, given the records of administrations, this one and other administrations in terms of their treatment of employees, and I understand that. I am sympathetic to you on those issues. But that's not my goal and I don't think it is the goal of Mr. Ink or Dr. Light, as we testified, but there are huge issues right now with an executive branch who we give—we give them a job to do, we give them programs—in terms of how they best align those programs.

I'd also note that after we went through all of this with the Department of Homeland Security, neither one of your organizations were supportive of it at the end of the day. I think, from your per-

spective, there is an improved product. I think history will tell whether it was. I think we are going to be continuing—this is a—Homeland Security is, in my opinion, a continuing work in progress as we try to get it right and come back here, and it probably could have been done more efficiently, but on some of the employee rights issues that has got to be an underpinning to this whole issue. You've got to have appropriate safeguards or they can use another procedure. I think that's very clear.

Mr. ROTH. I agree with president Kelley. I also have a problem with the possibility of politicization if there is no ability to amend and you have a fast track. I am sympathetic and think that perhaps part of the reorganization authority should direct these proposals to one committee. That would deal with your problem that they go to, 30 to 40 committees because each one has a piece. I think we would support that part of the process.

But let me give you an example. You had the BRAC process, which found that a number of DOD depots and facilities were under-utilized, and we realized that. There had to be a cutback. The cold war was over. They said to close McClellan, where we represented employees, close Kelly, and use the under-utilized capabilities at Hill, Warner-Robbins, and Tinker. And right on the eve of a Presidential election President Clinton decided Texas is an important State; California is an important State. He tried unsuccessfully to issue something called "privatization in place," ignore the under-capabilities at these other facilities, and just privatize in place at Kelly to keep the jobs at Kelly and McClellan. That would have been in our interest short term to do but it was bad Government. It was bad for Government. Yet, under your proposal he could do something like that, a President could do that.

Chairman TOM DAVIS. But he'd have to come back to the Congress to vote on it, and when you play that kind of politics, particularly in the Senate where each State gets two votes, it is unlikely to pass. That would be my counter-argument to that.

Mr. ROTH. Well, my counter to that would be that they could put four programs in a bill that clearly are absurd or duplicative, that the public would resent knowing that we get into, and yet four that are crucial, and you would not have an ability to amend. You would vote against it because it had four crucial programs, and then the President could campaign against you for not eliminating the Mohair subsidy, you know.

Chairman TOM DAVIS. Well, you get that now. I mean, you have that now in a lot of these—

Mr. ROTH. It's not a good thing.

Chairman TOM DAVIS. I mean, nothing is perfect in a democracy. Nothing is perfect procedurally. I think—where I come to a conclusion and maybe where I differ with you is I think it has gotten—that we are tripping over ourselves sometimes in Government with duplication. I don't think there is a lot of fraud and abuse, but there is a lot of waste in Government. And the tragedy is it is not on the part of your members.

Mr. ROTH. Absolutely not.

Chairman TOM DAVIS. Your members are out there working hard, coming in Fridays, Saturday, staying late to get the job done, but they're working under rules that we write sometimes that don't

make any sense, requirements that we put on them that shouldn't have to be there, and it's sometimes working under an agency matrix that doesn't—that could be operated a lot more efficiently where they would feel better about their jobs, we'd feel better about the product. And that's what we're trying to get at. I mean, it's not fair to them, either. You know, how do you get to that conclusion.

Mr. ROTH. I think we—

Chairman TOM DAVIS. Let me just finish and then I'll let you respond.

Mr. ROTH. Sure. I apologize.

Chairman TOM DAVIS. What we have found is when you go through the congressional process there are so many ways to kill these issues it becomes very, very—you know, almost an impossible job. We had not had a major reorganization since FEMA before the Homeland Security, and part of that is because we had lost the reorganization authority and administrations float little things up here and they get knocked down. They ought to have more authority.

Now, what ought to be in that underlying authority, what are the protections, at least in my judgment that's where I come down.

And we had Donna Shalala and Bill Bradley and a number of people who have taken leadership roles in previous Democratic administrations who agree with this conceptually. To them the issue comes down to what are the appropriate safeguards and the devil being in the details.

So I'd like to pursue this on their bipartisan recommendations, and I think our goal here isn't to try to preserve jobs at the Federal level, but I don't think our goal ought to be to eliminate them, either. And if they want to talk about downsizing, we'll make them go a different route. That's not the purpose of this, to try to somehow use some end run to try to get rid of jobs, to try to lose employee rights and try to manipulate the Federal work force. I think that is a loser if that's what we try to do. But we don't need people doing—you know, five people doing the same kind of thing, trying to deliver the same kind of service running across each other. Experience has shown we have been singularly unsuccessful in eliminating those under the current Government formats that we have, and that's the purpose of it.

I understand your concerns. I think it is very, very important that we take that into account as we construct this. And even if we end up with a product here that we don't like, I want to make sure that we understand every one of your concerns and try to address them along the way. You may institutionally not be able to support that for various reasons. I understand, Ms. Kelley, you don't like the tax cuts, and that you feel—institutionally. A lot of your members get dividends. Of the beneficiaries of the dividends, 50 percent make under \$50,000—of the dividend tax cut. I'm in a District where 82 percent of my constituents are vested in the market. A lot of them are your members and your retirees. But we can have an honest—but that's not what this is about ultimately. This is ultimately about trying to make Government more efficient.

I'm not trying to use—I think we will save money in the process, clearly, but, more importantly, I think that the people we're trying to deliver service to will get it delivered in a more timely fashion.

That's our goal. So this is just the start of that dialog, but I want to be very clear, at least from my perspective and I think from the initiators of this perspective, that we want to try to bring as many adequate safeguards as we can to try to convince you what our goal is, and it is not to hurt you or your members.

Ms. KELLEY. If I could just add, Mr. Chairman——

Chairman TOM DAVIS. Yes. Please.

Ms. KELLEY. I think—and there has been a lot of discussion about this today—that there are different kinds of reorganizations, and, while I am open to discussing anything and really to try to solve whatever the problems are, I have a hard time envisioning something the size of Homeland Security as a reorganization that could ever be on a fast track without the ability to question, debate, discuss, and amend. And then there are, of course, very small ones. If you're talking about moving 20 scientists from one agency to another, that's a very different kind. And then there are tons in the middle.

Chairman TOM DAVIS. What if I told you I agreed with you? And if you look at previous——

Ms. KELLEY. I'd say that's great.

Chairman TOM DAVIS. If you look at the previous reorganization authority, new Cabinet agencies were not subject to that. They would have to go a separate route. So I would agree with you on that.

Ms. KELLEY. Good.

Chairman TOM DAVIS. If we could put that aside.

Ms. KELLEY. Great.

Chairman TOM DAVIS. But there are a lot of little things in there—and, again, we just refer to the duplication over and over—that any executive ought to have the ability to come up here in a fairly quick manner, after consultation with Congress, to try to re-align those responsibilities appropriately.

Ms. KELLEY. But that's the other point I'd just like to make on the issue of efficiencies. Within existing organizations, there are inefficiencies and things that could be done better and differently without——

Chairman TOM DAVIS. Including this Congress.

Ms. KELLEY [continuing]. Reorganizing them.

Chairman TOM DAVIS. Including Congress.

Ms. KELLEY. But in the 29 agencies. And we are missing huge opportunities within the existing agencies of tapping into the people who have a lot of information and ideas about how to do that, and that's the front line employees. And if we can't do it within the current structures, to then create larger structures where their voice will never be heard, the process will never work because it doesn't today. So I would like to also ask for help and support and emphasis on the agencies as they exist to build efficiencies into them.

Chairman TOM DAVIS. Well, my experience as a county executive shows that—let me just make one other point. If you took a look at our allocations under the budget agreement, in my opinion the big savings are in contracting out, not that we save money in contracting out, which you do sometimes and you don't sometimes, but in the fact that many of these large-scale contracts have not been

basically managed very well and we have wasted tens of billions of dollars. That's not going after Federal employees. In fact, as you know from my statements, I feel that we need a stronger in-house cadre in many cases to be able to keep these in house. Competitive sourcing shouldn't just be going from in to out, but we ought to be able to look at taking things in, but that also keeps the private sector honest, so to speak, or keeps them competitive, as well.

I think that is all a part of this. I think there's a lot of savings in these areas. We're not just trying to pick on reorganization to do the bulk of this. In fact, I think that is a fairly small component of it, if that gives you a sense of what I'm thinking about.

Mr. Ink.

Mr. INK. Mr. Chairman, I would argue that our goal ought not to be efficiency, anyway. I think it should be effectiveness. One of the problems with the A-76 out-sourcing is that it is driven almost exclusively by dollars. It doesn't take into account whether the operation is more or less effective, whether it is serving the public better or less good. I think we ought to have a broader concept of what we are after.

Chairman TOM DAVIS. I think that is fair. I mean, efficiency is a piece of effectiveness.

Mr. INK. A piece of it. That's right.

Chairman TOM DAVIS. But effectiveness is the bottom line.

Mr. INK. That's right.

Chairman TOM DAVIS. Bottom line is the taxpayers that we take money out of their checks, Federal workers and non-Federal, whoever pays, they ought to be able to get their dollar's worth in a most effective manner, and the people that we're trying to serve ought to be served as effectively as possible.

Mr. INK. Unfortunately, with A-76 there's not even a good measure of the dollars.

Chairman TOM DAVIS. You get no argument from anybody here.

Mr. INK. But the objective I think ought to be effectiveness, not efficiency.

Chairman TOM DAVIS. Correct. All right. Thank you. Those are my—I think those are my questions at this point.

Mr. Van Hollen, do you have any questions?

Mr. VAN HOLLEN. Just a comment. Again, thank you, Mr. Chairman, for holding these hearings. I guess—and I've looked through some of the testimony. I was away for a little part of it. Dr. Light, I'm afraid I missed part of your testimony. But as a new Member, you know, having watched the Homeland Security Department process from afar, it clearly indicated where there was a priority on the part of the administration and the Congress to get something done. You might not have agreed with the final result and the shape of the department, but where there was a will and a determination to do it, it got through the Congress, and it got through relatively quickly, given the kind of organization that we are creating, this huge organization.

So it seems to me the burden is on those who want to change the system to come up with concrete examples of where an administration had made a determined effort, they said, "This is really an important thing. We want to make this change," and had failed to get it done. So I would be interested if you have some specific

examples of where the system has really, really failed in terms of the—not necessarily the outcome, but the failure to give the issue the attention it deserves. I mean, there may be many cases where someone submitted a proposal where the Congress has looked at it and said, you know, “We disagree.”

The suggestion here is that it gets just bogged down in committees and there is no action, not because there is disagreement or agreement but just because nothing happens, so I would be very interested in sort of specific examples of where an administration had said, “We think this is important. The Congress just hadn’t moved at all.”

Mr. INK. I would be happy to provide a couple of examples.

Mr. VAN HOLLEN. Thank you.

Mr. LIGHT. It is nice to see you up there. I’m one of your constituents.

Mr. VAN HOLLEN. Thank you very much.

Mr. LIGHT. We could have a cup of coffee somewhere in the District.

Mr. VAN HOLLEN. I’d like to do that.

Mr. LIGHT. I think the examples given by my colleague from AFGE about DFAS and Defense Logistics and all the savings and achievements of DOD are intimately linked to the development of a fast track methodology for closing bases. It just was something that, even as an Article I person, you know, I’ve worked in both chambers—that you just were never going to get those bases closed through the ordinary legislative process. It just was rife with District and State interest.

So I’m not saying that we’re headed toward a Defense base-closing kind of mechanism here. That’s not what this reorganization authority would provide the President. You’d have to go some length in addition to that to get that kind of a restructuring kind of proposal through, as envisioned, for example, by the Government in the 21st Century Act that Senator Thompson had introduced over the last few Congresses.

But we could give you plenty of examples of things that didn’t get approved or where Congress said, “No way. We’re not going to do what you’re suggesting.” And I think that you have that capacity here.

Mr. VAN HOLLEN. Right. Well, I would be interested in that. In the base closures, you know, the administrations—past administrations, Democrat and Republican, had come up with a list and said, you know, “We’d like to close these.” Congress, for the reasons you said, said no. I’m not aware anywhere of, for example, this administration with that kind of list of changes that it wants to make to the Federal Government that we’re sitting on down there. I mean, I’m sure there are a few minor ones, but in terms of things that really change the effectiveness and the delivery of services, I’m just not aware of anything the administration is—this administration has said that, “This is a priority, we want to get it done” that Congress is not moving on. And so it seems to me, before we change the process, we need to be really persuaded that it is broken, and I’m just looking for the evidence.

Mr. LIGHT. Good.

Mr. SHAYS [assuming Chair]. Thank you.

The Chair would be happy to recognize Mr. Cummings.

Mr. CUMMINGS. Mr. Chairman, I don't have any questions.

Mr. SHAYS. Let me say that this is a "twofer" for me, because yesterday I had someone from the Sterns School, where I went to get my graduate degree, and now I have someone from the Wagner school, where I got my other graduate degree.

If my colleague doesn't want to have coffee with you, I would be happy to.

Mr. LIGHT. Very nice.

Mr. SHAYS. To me it seems like this kind of classic debate, so I understand and appreciate where those who are representing Federal employees would be coming from. You don't want something done arbitrarily. You have your members you are concerned with. And then the other side of it is that we do know that any organization needs to be reorganized, and it needs to happen more often now than in the past, and we have a group of incredible people who are involved with the 21st century, including people like Donna Shalala and Senator Bradley I think was part of it, and recommendation three was that the President should be given expedited authority to recommend structural reorganization of Federal agencies and departments. I mean, they were looking at the Government, and that's what they said.

Then, when Donna Shalala was here, she said this is the most important but it is going to be the most difficult. Now, she said some other things. She said there should be less political appointees and more professionals. There needs to be more continuity. I haven't yet asked my question because I just want to say, based on the 9-years that I have been chairing a committee and a subcommittee, one of the things that is so clear to me is the fact that we don't use our employees well enough, and the other is that we have a lot of waste that we shouldn't have.

I'd like both you, Ms. Kelley, and Mr. Roth to respond to the recommendation of the "Urgent Business for America: Revitalizing the Federal Government for the 21st Century," the report of the National Commission on the Public Service. Would you tell me—they think it is the most important item. Do you agree with them? And is it just a matter of process? Or don't you not even agree?

Ms. KELLEY. I do not agree that that is the most important issue facing the Federal Government. I believe it is finding a way to recruit and retain the Federal work force that we have today and that we need for tomorrow, and that Federal pay is the No. 1 priority that is stopping that from happening. Last year I would have said it was No. 1 alone. Today I say it is tied with the threat of privatization of the work that Federal employees do, which is serving as a major deterrent to those who are considering a Federal career, wondering whether or not their position will even be done by a Federal employee next year or the year after it, and whether or not they can afford to raise a family and to have a lifestyle that they work very hard for in the county or the State or the city that they work when Federal pay is so far below what their counterparts are in the private sector. So I think those are the two most important issues facing the Federal agencies.

Mr. SHAYS. Thank you, Ms. Kelley.

Mr. ROTH. I would agree with that. The human capital crisis and the insufficient pay are problems. I think the management systems are ineffectual and employees have no faith in the management systems. That has been proven out by a recent study by OPM that finds that people like their jobs but have no confidence in their supervision, yet these highest-level executives keep getting bonuses as their agencies are demonstrated to be failing. There's something off there.

What I would want to finally add is the revitalization of labor/management partnership. For whatever reason, within a month of his Presidency, President Bush came in and rescinded labor/management partnership. Maybe it was too tied to the Clinton administration, but to the Unions it was not partisan.

I'll just hold up an example, an award-winning partnership. One VA medical center saved \$2,300,000. They are being honored this year. I could give you probably hundreds of examples where labor/management partnerships tackled massive overtime problems—Rock Island Army Base—that management, alone, could not deal with. Employees came in, redesigned their own schedules through partnership work teams, and there was then no more overtime, after previously having thousands of hours of overtime. At the Mint they saved millions of dollars by changing how they do work. This is in agency after agency.

To their credit, the VA has been probably one of the best examples of an agency that has listened to front-line workers. I never thought they would. I thought they were the most pathetic agency in the 1970's and 1980's. I have been around that long, unfortunately. But in the 1990's they started having labor/management partnership councils, and in VA medical center after medical center they either integrated functions or they closed some hospitals, but it was all done in partnership. People didn't have to lose their jobs. Their talents were used in other ways. But they saved money, they cut down on patient waiting time. They totally revitalized the VA by any objective measure. They went to 22 VIZNS after they had hundreds of medical centers having independent authority. They were all—

Mr. SHAYS. Ms. Kelley is beginning to think that maybe she should have taken more time to also talk about the all the great things that her folks are doing.

Mr. ROTH. And they have. They have done great things at IRS and Customs.

Mr. SHAYS. So, for the record—

Mr. ROTH. I'll yield back to her, too, but I wanted to give you concrete examples—

Mr. SHAYS. You don't control the time.

Mr. ROTH. I wanted to give you concrete examples—

Mr. SHAYS. Yes, I hear you.

Mr. ROTH [continuing]. Of what we do every day.

Mr. SHAYS. Let me just tell you, I—

Mr. ROTH. And we want to do more.

Mr. SHAYS. I was trying to make Ms. Kelley smile, and she did, so for the record we'll note that. And just to say that I will tell you in my schooling theoretically the system is supposed to work that way, that we're supposed to involve the workers and management

and you ultimately come up with the best decisions. The sad thing is, because there is such a lack of trust of the administration, a good concept that I think is a good concept—that any President should have the power to reorganize—and I think subject to what was done after the law, the court case where there was basically—had to be a concurrence of both the House and Senate, but an up or down, not being able to micro-manage the bill to me is just a tremendous powerful tool for a President and Congress, with the protection to employees that Congress can simply vote it down.

But I understand, given the track record of the administration, that you don't even want to go down that road, but unfortunately, in terms of theory, it's supposed to work quite well that way.

I'd love, Mr. Ink, for you and then Dr. Light for you to comment on anything I said in opening, or Ms. Kelley or Mr. Roth. Is this a classic kind of debate that takes place between labor and those who want to provide for some executive authority?

Mr. INK. No. It is today, but that's not been true in earlier times.

Mr. SHAYS. What happened in earlier times?

Mr. INK. Well, when I was involved we had a very good relationship with the Unions, and, as a matter of fact, in the reorganizations that I have been associated with or in charge of, I always had the Union member representative as a member of my steering group.

Mr. SHAYS. But they always knew, didn't they, that you had the authority to do the reorganization?

Mr. INK. What's that?

Mr. SHAYS. They always knew you had the authority to do the reorganization.

Mr. INK. Yes.

Mr. SHAYS. And that's a particular powerful tool.

Mr. INK. Yes.

Mr. SHAYS. If you didn't have that authority, you might not have them at the table.

Mr. INK. Well, if we hadn't had the authority a number of these would have never emerged. I mentioned the Environmental Protection Agency.

Mr. SHAYS. Right.

Mr. INK. There was tremendous concern across this country about the need for some kind of—for greater emphasis, greater attention, greater priority to environmental problems, but there are so many different interest groups that it was very, very difficult to even develop a piece of legislation that could be introduced, much less get a vote on it. And both the Republicans and Democrat leadership agreed it was impossible, but through the reorganization authority we were able to develop a compromise before the bill ever came up to Congress. We had extensive consultations with the different interest groups, with the Unions, and with the leadership, both Republican and Democrat, on the Hill. So when we came forward with the bill not everyone had agreed, but we had a surprisingly broad consensus and we were able to set up an Environmental Protection Agency which was certainly in the interest of the public.

The same thing was true with the Consumer Product Safety Commission. So many different interest groups, but through the re-

organization authority we were able to do what we could not have done through the regular legislation, and this is in the interest of the public.

And I think we have to keep in mind that, important as we feel we are in the Government, it is the public that we serve and that should be our final and most important objective.

Mr. SHAYS. Dr. Light, thank you for your patience.

Mr. LIGHT. You and I first met over in the House when I came with Mondale and Nancy Kassebaum Baker to talk about campaign finance reform when I was at Pugh, and all of our work at Pugh on campaign finance reform was driven by empirical research. I agree with organized labor on the vast majority of issues concerning the Federal work force. My main concern about recruitment right now is that I don't think it is a money issue primarily. I think it is partly about the money, but when we talk to young Americans about the choice between going nonprofit, where the vast majority of the Wagner School students go, at a much lower pay than they could have gotten in the Federal Government—to get a Wagner student to try for PMI—and we've got one this year, one Wagner student who is taking a PMI—Presidential management internship. When we talk to them about why they aren't interested in the Federal Government, the answer is it's the jobs. They don't want to be in these over-stacked, densely layered agencies where they cannot make a difference through their work. That's where I think organized labor and I are in agreement about de-layering these agencies and pushing authority and resources down to the bottom where employees want to make a difference. They just can't, given the thicket of obstacles that they face.

For the young people that I deal with, it is not "Show me the money," it's "Show me the job." And reorganization authority is one tool in improving the attractiveness of Federal employment. It cannot be a tool that is abused, and I'm afraid that both Democratic Presidents and Republican Presidents over the last 12 years have given Federal employees and potential employees lots of reasons to worry about who their bosses are. But, you know, properly circumscribed, properly limited through potent and robust conversation with labor and others, I think that reorganization authority could be part of a tool kit for making the jobs much more attractive to all our students.

How we got you into politics is a good instructive case as to what we need to do with our other publicly oriented students.

Mr. SHAYS. I don't want you getting all your students running against me now. That's not—

Mr. LIGHT. We'll keep them in other Districts. [Laughter.]

Mr. SHAYS. You know, I am so proud of the Federal employees. I notice that when I want to go home at 6 p.m., the roads are full. It is hard to leave. People come early and they stay late. I would hope—I would just tell you I hope we can find a solution to this. It would be I think a huge accomplishment for this committee to do something that hasn't been reauthorized since 1984. It is the right thing to do. The question is how do we do it. And if anyone can do it, it would be this chairman working with other members of this committee who live in the area, who you have coffee with sometimes, and others who obviously are going to make sure that

Federal employees are not overlooked in this process. So I think in a sense it will be a test of this committee of how we involve your organizations and others in accomplishing this, but it really needs to happen. I think we'll just have to figure out how we provide some protections, how we have a process that involves the workers even in the legislation.

I don't have any further comments. I would be happy to—is there anything that you might have stayed up last night thinking about that you wanted to put on the record? Usually those are the best comments, frankly. Is there anything before we close that you want to put on the record?

Mr. ROTH. I wanted to—I don't know if you were here for Mr. Ink's testimony. He mentioned in the previous reorganization acts there were specific labor protections and bargaining unit certification continuation provisions. Obviously, that takes a lot of concern off the mind of the union when you look at what happened at Homeland Security, and when you look at what happened at Transportation Security Administration where employees are basically at will, which I think will probably come back to haunt the Congress and TSA. The fact that Mr. Ink had the labor protections and the built-in process of labor union involvement was probably a key to success.

That's all I had to say.

Mr. SHAYS. Thank you, Mr. Roth.

Ms. Kelley, any comment?

Ms. KELLEY. No, thank you.

Mr. SHAYS. Dr. Light.

Mr. LIGHT. None.

Mr. SHAYS. Mr. Ink, any?

Mr. INK. Only this: The legislation I think is important. I give it strong support. But by itself it won't accomplish much and we do have to find ways of redeveloping a sense of trust which does not exist today. This is not just trust between labor and management, but trust between the executive branch and the Congress. This consultation is absolutely essential. And to think that you have to rely upon amendments after it has come up before Congress I think is a mistake because we need to find ways to reach agreement, we need to find ways to find common ground before the legislation even comes forward.

In some instances, we won't be able to do that, but in most instances, at least it has been my experience—and I've represented the President in a number of these cases—in most instances it has been possible, provided we had a willingness in the executive branch to really consult genuinely with the Congress, and the Congress would approach it from a bipartisan vantage point.

Mr. SHAYS. Thank you. I think that's a nice way to close.

There are no more questions, so I would just say that the record will remain open for 2 weeks so that the witnesses may insert any additional information they wish into the record.

I'd like to thank everyone for attending. I know the chairman wanted to convey the fact that he thinks this has been a very pro-

ductive hearing. You know him well enough to know that he will be working with you to see where common ground can be had so that we can move forward with this legislation.

I thank you all very much. With that, the hearing is adjourned.
[Whereupon, at 1:12 p.m, the committee was adjourned, to reconvene at the call of the Chair.]

